



HEGEL'S PHILOSOPHY OF RIGHT

CRITICAL PERSPECTIVES ON FREEDOM AND HISTORY

Edited by

Dean Moyar, Kate Padgett Walsh, and Sebastian Rand



ROUTLEDGE



Hegel's Philosophy of Right

Hegel's *Philosophy of Right* was his last systematic work and the most complete statement of his mature views on ethical and political philosophy. The text explores the relationships between three distinct conceptions of human freedom: persons as possessing contract rights, subjects as reflective moral agents, and individuals as members of an ethical community. It strongly influenced the early Marx and debates over liberalism and communitarianism that arose in the latter half of the twentieth century.

In celebration of the 200th anniversary of the publication of the *Philosophy of Right*, the 18 essays in this volume by contemporary scholars examine the nature and impact of Hegel's text. They examine a diverse array of topics, ranging from Hegel's account of rights, religious freedom, gender, the state, history, and naturalism to some hitherto relatively overlooked topics such as Hegel and Luther, art and nationality, and Hegel and the market. Each contribution also pays homage to the work of Terry Pinkard, who, as a foremost interpreter and scholar of Hegel's thought, revived and reinvented the contemporary field of Hegel studies.

Hegel's Philosophy of Right: Critical Perspectives on Freedom and History will be valuable reading for scholars of Hegel, nineteenth-century German philosophy, moral and political philosophy, and the history of political thought.

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Editors' Introduction

Dean Moyar, Kate Padgett Walsh, and Sebastian Rand

Introduction

There is a strong case that G.W.F. Hegel's *Philosophy of Right* is the greatest single work of modern political philosophy. In scope and substance, Hegel's text rivals Locke's *Two Treatises* and Rousseau's *Social Contract*. While the latter two take social contract theory in revolutionary new directions, Hegel's work is set apart by its inclusion of moral claims and its detailed treatment of social institutions, as well as by its rigorous method of development. For systematicity and method only Hobbes' *Leviathan* is a genuine rival. Compared to the dry wit and hard-nosed materialism of Hobbes, Hegel's beguiling and frustrating prose can seem unconscionably obscure. Yet even for those who find such terminology as the Platonic-sounding "Idea" opaque, the critical and constructive results are impressive. In this text Hegel achieves the synthesis of ancient with modern political thought, of the Enlightenment conception of individual reason with the counter-Enlightenment emphasis on custom, and of the realism of modern political economy with an idealist view of political authority. Of course, this was a synthesis that could not hold, and after Hegel's death, the system spawned spin-offs to the left and right, as philosophers and social theorists sought an alternative to the ascendant capital- and colonial-fueled liberalism. In today's liberal democracies the social contract tradition continues to predominate, though often, as in the work of John Rawls, more as a "device of representation" than as an actual model for the foundation of the republic.¹ Yet because of our mercantile world's many shortcomings, Hegel's critique of contractualism still hits home, and the systematic project remains a living source of insight and guidance.

This volume consists of 18 original essays on the *Philosophy of Right* by leading scholars of Hegel's philosophy. Drafts of nearly all the essays were presented at an online conference in October 2021, "Hegel's *Philosophy of Right*: A Conference in Honor of Terry Pinkard." The essays are written by students and colleagues of Terry Pinkard, who has been extraordinarily generous with his time and insights over this long career. We say more about Terry's work and legacy in the third section, after briefly introducing Hegel's text and its ongoing relevance to our world.

Celebrating the two hundredth anniversary of the publication of the *Philosophy of Right* relies on assigning the text a specific date. This is in one sense quite fitting, since Hegel's published text includes direct reference to very recent political developments. He found himself obliged at the last minute to reframe the presentation of his views, as the Carlsbad Decrees of September 1819 ushered in a new era of censorship and press restrictions and effectively put an end to the reform movement in Prussia that Hegel had championed. The nationalist student movement (represented by the Wartburg Festival of October 1817) and the assassination of dramatist August von Kotzebue were linked to philosophical currents in German-speaking lands, and as a prominent philosopher with ties to some of the students involved in the festival, Hegel was under scrutiny. While there remains some question about how much of his main text was actually shaped by these developments (we have lecture notes from 1819 that give a different view on some important points), there is no doubt that his largely polemical Preface was a reaction to recent events. In the Preface, he joins sides with the authorities in suppressing one of his own philosophical rivals (J.F. Fries), and it was this Preface that dominated the initial reviews and discussions of the book.² To further complicate the historical placement of the work, the text we have is not only the work published in 1820–1821, but rather that work supplemented by lecture notes gathered in the version edited by Eduard Gans and released in 1833. Many of the *Zusätze*, or “Additions,” add nuance to the view and often cast it in more progressive terms. To add yet another layer, scholars also have access to the extensive handwritten notes that Hegel made in his own copy. Taken together, we have a multilayered text consisting of strictly developed systematic paragraphs accompanied by extensive published and unpublished commentary.

The problem of Hegel's politics and his historical moment is not just an external one, a problem for us, but rather a problem that Hegel himself famously thematizes in the Preface. Against utopian accounts of justice, building castles in the air, Hegel proposes an anchoring of theory in actuality. In his famous *Doppelsatz* or “double dictum,” he proclaims: “What is rational is actual; / and what is actual is rational” (PR 20). An earlier set of lecture notes has “becomes” for the second “is” in each side of the dictum, giving it an aura of progressivism rather than the aura of acquiescence to the present that many found in the published version. He is clearly arguing against a version of “the rational” that offers an a priori blueprint for a just society at any time, in any place. In that sense, his statement would seem to join critics of ideal theory in asking us to focus on the present actuality and how it can be rendered rational. He refers to the fable of an athlete who brags of his jumping feats in Rhodes. Hegel endorses the challenge issued in reply: “Here is Rhodes, jump here” (PR 21). Philosophy must demonstrate reason in and for the real world rather than in and for a fictitious ideal world.

If Hegel is not engaged in ideal theory, then how does he understand a philosophical account of right? He follows reference to the Rhodes fable with his statement of philosophy's task: "To recognize reason as the rose in the cross of the present" (PR 22). The imagery of the cross is Hegel's acknowledgment that there is much that is wrong, and much suffering, in the present world. Reason must be manifest in the world for philosophy to recognize, though it is not obvious how exactly to conceive of the pre-theoretical world that philosophy aims to reconstruct rationally. Positive *law* gets surprisingly little treatment in the text, and despite his historicist claim that "philosophy, too, is its own time comprehended in thought" (PR 21), he is at pains to distinguish himself from the historical school of right.

Hegel addresses himself to perennial questions of political philosophy, but he does so under distinctly *modern* conditions. Though he freely criticizes Rousseau, Kant, and Fichte, his own view is also based on free will and subjectivity. He aligns himself with Plato on the analogy of individual and state, claiming that his view likewise portrays the reflection of the mind's structure into the political world. Yet he holds that Plato was wrong to disallow ownership of property by the guardians. The *Doppelsatz* itself is, according to Hegel, a view that comes from Plato, for it amounts to the claim that the Idea is what rules, or should rule. Yet Hegel seems to have little inclination to support the rule of philosopher-kings. His conception of social rationality relies on what he takes to be the modern integration of the family and economy with a political superstructure where much of the work is done by expert executive functionaries.

Hegel's most striking departure from his immediate predecessors, Kant and Fichte, is his unification of right and morality, or external and internal freedom. For Kant, the problem of political organization had to be solvable even for "a nation of devils" (PP 8:336), and the strict division between the Doctrine of Right and Doctrine of Virtue in his *Metaphysics of Morals* reinforced this point. For the most influential version of Fichte's view, given in the 1796–1797 *Foundations of Natural Right*, the split between right and morality is fundamental. Fichte writes with characteristic extremism that morality and right "are, already originally and without our involvement, separated through reason, and are completely opposed" (GNR: 3:55). There is of course a sound point in this division, for modern political right does typically feature a division between inner conviction as the domain of the moral and religious, on the one hand, and outer action as the domain subject to public regulation, on the other. We do not typically think that convictions should be regulated, and we think that the state should keep us from interfering with one another's external freedom – that is, that the state should keep us from harming each other physically (rather than, say, morally, which would put the state in charge of deciding what is moral). But Hegel thought of the minimal state of external freedom as the mere *Notstaat*, the "state of necessity," and he thought that morality conceived primarily as inner freedom disrupted and distorted our ethical relations with other agents. He believed that the social

and political institutions had to be reconceived as the fulfillment of both right and morality, as actualizing a rational world in which one could live a non-alienated life of particular attachments and public aspirations. While this conception has struck some as dangerous to individual liberty, they overlook the fact that Hegel explicitly defends the authority of individual conscience (PR §§136–8) and rejects the regulation of moral conviction by law (PR §213).

The themes of mutual recognition and life, both of which have been explored brilliantly by Terry Pinkard over the last four decades, are two of Hegel's main devices for reinterpreting modern political thought. Recognition was first placed at the heart of natural right by Fichte, who saw its broad potential but who also tended to think of it narrowly as the mutual self-limiting of agents to discrete spheres of activity. In the *Philosophy of Right*, Hegel takes a curiously long time to bring mutual recognition onto the stage. Once he does (PR §71), he suggests that the whole account has been informed by the idea that “the relation of will to will is the true distinctive ground in which freedom has its *existence*” (PR §71). In Hegel's famous treatment of mutual recognition in the *Phenomenology of Spirit*, the element of struggle in processes of recognition figures more prominently than the integrative aspects of achieved recognition. Compared to that account, the *Philosophy of Right* seems to have disappointingly little to say about the agonistic elements of political life. The differing methodologies and aims of the two works largely explain this difference in the role of recognition in each, for the difference does not represent a major shift in Hegel's actual views. The works are in fact more similar than they appear. The *Philosophy of Right* gives an account based on the logic of subjectivity, which is also, and necessarily, a logic of intersubjectivity. At each of the crucial junctures of the text, there is a conflict between subjects that brings latent tensions to light. From the criminal and avenging wills at the end of “Abstract Right,” to the struggle of the property owner and starving person in the right of necessity, to the empty and evil versions of conscience that bring “Morality” to a close, the account's dialectical rigor is a contest of subjectivities. Hegel does not in the *Philosophy of Right* put us in the perspective of the conflicted agents themselves, and this more than anything accounts for the less dramatic feel of the text.

Like recognition, *life* is both everywhere and rather elusive in the *Philosophy of Right*. Nowhere in the text does Hegel present his theory of the living organism or the cycle of life as a whole of moments culminating in the reproduction of the individual. There are some references to the theory of drives and the life of the individual person and subject is thematized in a few important sections. Yet the major turning point of the book, the transition from “Morality” to “Ethical Life,” puts a huge amount of systematic weight on the concept of life. This is true even though Hegel's extensive introduction to “Ethical Life” (PR §§142–57) only gestures at the full theory of life. The choice to translate *Sittlichkeit* as “Ethical Life” rather than the more literal “Ethicality” is appropriate because it captures Hegel's aim of developing a system of “the living Good” (PR §142). But mapping his institutions onto the

structure of life takes a good deal of work.³ The structure of life is laid out in detail in *The Science of Logic* and in other texts, so we do have the resources for comprehending the living character of the system of institutions.

We can glean from the *Logic* that the move from “Morality” to “Ethical Life” has the same structure as the move from “The Idea of the Good” to “The Absolute Idea” (a move that Hegel describes as a turn back to the idea of life that he detailed earlier in the text). But noticing this parallel is only so helpful for understanding the *Philosophy of Right* itself, since Ethical Life presents a highly specific version of the Absolute Idea, and Hegel’s realistic, anti-utopian conception of political philosophy is not amenable to pure conceptual construction. Indeed, a great deal of care must be taken with the relation of the *Logic* to the theory of Objective Spirit that Hegel gives in the *Philosophy of Right*. Commentators continue to debate the extent to which the *Logic* does the real work in determining the requirements of right. To many, it seems that Hegel’s commitment to a presuppositionless science requires that the *Philosophy of Right* not only be based on the *Logic*, but also that it not import presuppositions or contingencies from the outside of the dialectic. Others, however, question whether the pure character of the *Logic* can be transferred to the *Philosophy of Right*, which must incorporate the contingencies that have shaped the actual world. The goal of reconciling us with the world that we inhabit would not make sense, it seems, without such an incorporation of the external into the system.

There remain many further lines of research for interpreting the relation of theory and practice in Hegel’s philosophy. The “left Hegelians” took the union of thought and actuality to be a demand for revolutionary action, and that appeal to praxis remains quite alive today. Fortunately, the “right Hegelian” view has for a long time existed mainly in the imagination of his critics; its nineteenth-century versions should be further studied if only to understand our current rightward lurch. The scholarly consensus is that Hegel himself was a centrist Hegelian, a gradualist reformer with his sights set on freedom but his philosophy oriented by historical and present actuality. As some of the essays in this volume indicate, however, there are pressing issues today, such as the climate catastrophe, that make such gradualism untenable. The recent rise of the anti-liberal right also gives us reason to keep our attention on preserving the freedoms we already enjoy against the encroachments of authoritarianism. Hegel can be enlisted for that project of preservation, even though his great insight into the restlessness of thought will continue to push us beyond the present.

2

Hegel’s thought has enjoyed a strong resurgence in recent years, due in no small part to Pinkard’s work. This volume explores the contemporary relevance of Hegel’s central themes of reason and history, and it is comprised of contributions from scholars whose work reflects Pinkard’s deep and abiding

influence upon contemporary Hegel scholarship. Some of the essays take up specific topics such as religious freedom, capitalism, property, gender and labor, and the individual's relationship to institutions and the state. Others consider the role of history in Hegel's thought and his distinctively historical narrative of freedom in modernity, while others examine the roots and implications of Hegel's naturalism. Taken together, these contributions make a strong case for the enduring importance of Hegel's *Philosophy of Right* for social, political, and moral thought. They demonstrate the depth and range of his project, the exceptional impact that Pinkard's scholarship has had on the field, and the continued richness and fruitfulness of Hegelian thought today.

The task of engaging with Hegel's project 200 years later presents numerous challenges. The intervening centuries have seen the relentlessness of capitalism's transformations of life across the planet, the rise of authoritarianism and fascism, the rapid development of new technologies, including those of mass warfare, the entrenchment of poverty and oppression, and mass migrations driven by human-caused famines, warfare, and environmental crises. Perhaps it was possible in the early nineteenth century to be optimistic that one was living in an era of ongoing political and moral progress. However, the notion of a progressive development of modern life, whereby the constituents of modern societies continuously become more rational and hence more fully free, has been thrown into doubt by developments since Hegel's own time. It has been further thrown into doubt by the rise to prominence of histories and theoretical approaches that dispute the very construction of the idea of modernity by bringing into relief the willful one-sidedness of that construction in contrast to the diverse realities of lives and histories across the globe. Indeed, Hegel's account of modern life limits itself to a narrow range of the ideas, social practices, norms, and institutions that existed in his time, all specific to particular segments of the early industrial European society he inhabited. Hegel, moreover, famously shows less interest in uncovering the many ways in which freedom in fact failed to be realized in his own day than in rationalizing select elements of the existing moral, social, and political order.

Nonetheless, there is much to be learned from Hegel's project of accounting for the rationality of modern life in terms of the development of freedom through history. First, although his thought has at times been used by those wishing merely to affirm and reinforce the dominant moral, social, and political order, it also emphasizes critical engagement. While Hegel's philosophy is not well-suited to radically re-envisioning society, it does enjoin a careful examination of the actual social world in which modern agents are enmeshed, with the goal of identifying those practices, norms, and institutions that might be rendered more fully rational. Hegel thus argues for constitutional and electoral reforms, the liberalization but also preservation of the estates, and greater recognition of the essential work that women perform in what he conceptualizes as the private sphere of bourgeois family life. Such proposals, though not radical, nonetheless do advocate revisions to existing practices, norms, and institutions in order to bring them more fully in line

with their potential for achieving freedom. And they introduce the possibility of employing the concept of freedom to critically, and perhaps even radically, examine the practices, norms, and institutions of society.

A second way in which Hegel's project in the *Philosophy of Right* is relevant today is in its development of a uniquely rich account of freedom. At a time when freedom is the battle cry that rallies support for authoritarianism, racism, and policies directly undermining the common good, the predominant understanding of freedom appears nonsensical. In contrast, Hegel proposes a comprehensive and historically grounded theory of freedom that encompasses rather than dismisses the many complexities of what it means to live freely. This account is unprecedented in its depth and richness. In place of shallow and vague notions of freedom that today dominate not only markets and economic activity but increasingly also political and even moral discourse, Hegel synthesizes three notable conceptions of freedom. The result is a multi-dimensional account, according to which freedom is realized not just by the absence of coercion or in the proper internal ordering of one's own mind, but also in a certain kind of external ordering of our shared social world. Hegel's approach thus yields an antidote to the vague and empty rhetoric of "freedom" that is today used to justify economic exploitation and incite anti-democratic movements.

A third way in which Hegel's project speaks to concerns of our own day is in its attention to ongoing questions about moral and political progress. We are far removed from Hegel's intended audience. Our world, since transformed by advanced capitalism, science and technology, and myriad other social, political, and ethical changes, is radically different from Hegel's world. And yet, many of the practices, norms, and institutions of today still bear a strong resemblance to those of Hegel's day. Our lives are organized by market economies, nation-states, and bourgeois family structures. And the questions Hegel asks about these organizing elements of our lives are ones that we still face: Does the arc of history genuinely bend toward justice, and which developments specifically constitute genuine progress, as opposed to mere change? Which traditional practices, norms, and institutions should we continue to uphold, and which should be swept away? What standards should we appeal to? The *Philosophy of Right*, though written at a time when modern society as we know it was only nascent, nonetheless speaks to these questions by emphasizing historical development. Hegel seeks to understand why and how modern life makes sense to us, not just because it is all we have ever known, but also in its own right. More specifically, in what sense does modern life represent a kind of progress from earlier practices, norms, and institutions? To answer this question, Hegel examines the origins and development of human freedom in order to determine how well it is actually realized in the lives of individuals today.

A fourth instructive component of Hegel's project is its unique answer to the question of the value of history. Why bother looking to the past when the challenges of the present demand attention? The essays in this volume speak to the striking relevance of Hegel's thought for contemporary social,

political, and moral developments, but also to the centrality of history to how we comprehend ourselves in the present. The historical core of Hegel's thought, as Pinkard has emphasized, is exceptional in its aims. Hegel seeks to explain and validate modern agency, as well as the practices, norms, and institutions that support it, as the result of a progressive struggle throughout human history to realize what we now understand as freedom. History is not only valuable but also indispensable, on this view, to our ability to understand ourselves as beings engaged in a purposive, collective endeavor. Hegel thus argues, in response to the now widespread assumption that human beings are merely self-interested, that throughout history, humans have in fact worked together to seek just and ethical ways of living together. We are certainly self-interested, but we are also beings who have continually created, shaped, and revised our societies to become ones that enable us to recognize one another in more just and ethical ways. The modern demand for freedom is thus, far from a reflection of mere self-interest, properly understood within this historical narrative as the latest instantiation of our collective endeavor to realize the common good.

Finally, though not exhaustively, Hegel's project is significant today for its contributions to our understanding of the naturalism that modern agents embrace, shaping in important ways our understanding of ourselves in relation to the natural world. We are not just highly evolved organisms, or even *zôa politika*, as Aristotle observed; we are also beings who are responsive to reasons and capable of directing ourselves. Hegel brings to light our unique status as self-interpreting animals who are not just creatures in nature, but also beings with a second, social nature that enables us to move within the shared normative space that we both occupy and construct together. As Pinkard has shown, this conception of second nature has dramatic and far-reaching implications for contemporary debates about agency and how it is possible for agents to be truly free and self-determining.⁴ We must, philosophically, turn toward our shared second nature rather than merely looking inward or grasping at existing practices, norms, or institutions as such. What it is to be an agent is not set by the mere fact of our status as rational beings, but rather is the result of our joint constitution of ourselves through history into agents who still strive, as in Hegel's own time, to more fully realize human freedom.

3

Our ability to see the significance of Hegel's thought for contemporary philosophy along so many axes – our ability to understand Hegel as one of us (in a broad, aspirational sense of “us”), even as we mark the historical distance between the early nineteenth century and our own – is one Terry Pinkard has played an outsized role in cultivating. He has not only championed as a writer, colleague, teacher, and mentor the idea that Hegel is our late contemporary; he has also developed his interpretation of Hegel in a way persistently

oriented toward the mutual insights Hegel and our contemporaries can offer one another. These insights consist both in ways of posing problems and in ways of answering them, along with the judgments of adequacy these ways bring with themselves (implicitly or otherwise). Yet across a changing array of philosophical interlocutors, emphases, and approaches in his work, he has in many ways remained remarkably consistent in his philosophical concerns and priorities. While it is impossible to do justice to the breadth and depth of Pinkard's work in the scope of this brief introduction, in what follows we attempt to convey a sense of both the dynamism and consistency of his thinking over the past five decades.

Terry Paul Pinkard was born in Lafayette, Louisiana in 1947 and began university studies in 1964 at the University of Texas, Austin, earning the BA (1969) and MA (1971) in philosophy there.⁵ Among his teachers were a leading Wittgensteinian, O.K. Bouwsma, and Marjorie Grene, who had been by turn a student of Heidegger and Jaspers, a student of Carnap and Hempel, a virtual co-author of Michael Polanyi's, and a major figure in the development of the philosophy of biology.⁶ During this same period, John Silber – Kant scholar, public intellectual, chair of the department, and then dean of the college, before his firing and move to Boston University in 1970 – made Kant a frequent topic in Austin.⁷ Perhaps most importantly, both J.N. Findlay (1966–1967) and Klaus Hartmann (1965–1966) were visiting professors in the department while Pinkard was a student, with Hartmann returning to give further lectures in subsequent years. In 1971, Pinkard enrolled at SUNY Stony Brook, where he earned the PhD in 1975 with a dissertation entitled *The Foundations of Transcendental Idealism: Kant, Hegel, Husserl*, having spent the 1972–1973 academic year as a DAAD Fellow at Tübingen, studying primarily with Hartmann (recently transferred from Bonn).⁸ Pinkard began his teaching career in an assistant professorship at Vanderbilt University, where he stayed for one year before moving to Georgetown University, where he remained until 2000 when he took up a professorship at Northwestern University. He returned to Georgetown, where he now serves as University Professor, in 2005.

The most pronounced influence on Pinkard's early work on Hegel was, as he frequently acknowledges,⁹ Klaus Hartmann, pioneer of an avowedly “non-metaphysical” interpretation of Hegel as a category theorist.¹⁰ According to the category theory interpretation, Hegel's idealism is not a metaphysics – that is, an account of supersensible beings explaining experience – but an ontology – that is, an account of our ultimate presuppositions about what is and how it is.¹¹ We justify these through a self-validating, transcendental-dialectical process of exposing and resolving contradictions in those presuppositions, a process exemplified above all by Hegel's *Science of Logic*. In this process, we examine not only the contentful concepts constituting those ultimate presuppositions, but the logical relations in which they stand. Thus, on such an interpretation, “the enduring contribution of Hegel is to a theory of categories and to understanding the central place of systematic reason in philosophical reflection” (Engelhardt and Pinkard 1994: x).

Although as a student during the late 1960s Pinkard had been drawn, naturally enough, to the social philosophy of Marx and Sartre (authors on whom Hartmann had published), his dissertation engaged with Kant and Hegel, along with Husserl, on the theoretical-philosophy topic of transcendental argument – then the dominant topic in Anglophone literature on idealism, due to the influence of Strawson and Bennett.¹² Like Strawson's and Bennett's, Pinkard's aims are hardly antiquarian: in fact he describes the approach in the dissertation as neither historical nor systematic, but as "problem-centered," occupying "the uncertain middle ground between history and system" and inquiring after "the nature and validity of transcendental idealist philosophy, not the historical development of it." But although Pinkard justifies this approach by asserting that "many of the current concerns of contemporary philosophical debate are similar to those which originally inspired the transcendental idealist philosophers" and that "this method of treating historical figures is a popular way of treating the history of philosophy in contemporary philosophy," and although he already displays in the dissertation his characteristic lucidity and directness, he does not aim simply to turn Hegel into an analytical philosopher, or to plunder the system for useful but isolated theses and arguments.¹³ Instead, foreshadowing a claim he will make about his approach in later works, he identifies the uncertain middle ground with the Hegelian position he aims to defend, describing his method as "a variation on a type of Hegelian 'dialectical' history" (Pinkard 1975: vii–ix).¹⁴ Thus, he motivates the dissertation's problematic by entertaining positions identified with Descartes and Locke, before moving on to Kant's introduction of transcendental argument as an initial solution, while the systematic aspect of the approach is clear not only in his choice of interlocutors (among them Sellars, Nozick, Stroud, Quine, Rorty, and Wittgenstein) but also in his choice to treat Husserl (the transcendental Husserl of the *Ideas*) after Kant but before Hegel.

Pinkard describes the Hegelian position he lands on as a "*logic of explanation*,"¹⁵ consisting in the analysis of the concepts invoked in "explanations in terms of the logic of being, in terms of essence, and in terms of conceptuality" (Pinkard 1975: 389) and yielding the following result:

- (1) a reconstruction of familiar concepts gained from experience, science, and the history of philosophy; (2) a construction of a normative logic of these concepts as opposed to the acceptance of mere usage, and of new concepts where these are necessitated; (3) a theory of the determinateness of concepts, that is, a logic that not only *connects* the concepts but is *constitutive* also of their determinateness, their meaning.

(Pinkard 1975: 275)

Thus he emphasizes the specifically Hegelian program of providing an explicitly self-validating system in which no ultimate, primitive distinction between its content and form remains.¹⁶

In his work over the decade or so following the dissertation, Pinkard continued to wrestle with the question of the relation between history (including, but not limited to, the history of philosophy) and systematic philosophy, between concrete actuality and transcendent possibility, with an increasingly explicit orientation toward the former, particularly in the form of social and political philosophy. Thus, alongside articles elucidating the method and content of Hegel's *Logic*,¹⁷ Pinkard steadily worked to transform and extend the category theory interpretation of Hegel into "social categories" and political philosophy.¹⁸ The challenge he faced was that of showing that the apparent gap between the dry reaches of theorizing about transcendental argument, on the one hand, and the engaged trenches of social and political theory, on the other, is only an apparent one. In addressing this challenge he could draw, in the first place, on the category theory interpretation itself: although Hartmann insisted that there could be no systematic way of tying the two together, he had published detailed studies of Sartre and Marx in relation to Hegel¹⁹ and was working toward a developed reading of Hegel's political philosophy during the same period.²⁰ He could draw, in the second place, on his Hegelian criticism of Kant in the dissertation, which consisted in a criticism of the "primacy of the practical" in the form it takes in Kant's recourse to the resolutely practical, non-theoretical ideal of the highest good as the ultimate systematic-methodological backstop.²¹ His endorsement of this Hegelian criticism required that he aim to integrate the practical and theoretical into a single systematic view.

The result of this first decade of Pinkard's professorial career appeared in two books, starting with *Democratic Liberalism and Social Union* (Pinkard 1987). In laying out the approach taken in that work, Pinkard credits Rawls' *Theory of Justice* (Rawls 1971) with having inspired a "renaissance in political theory," but one that neglects "the nature of the state and its relation to society" (Pinkard 1987: xi). With the goal of providing a satisfactory theory of the state, Pinkard develops, first, "a non-Kantian theory of autonomy [and] of respect for autonomy," leading to "a theory of social unions." He next turns to problems in legal philosophy to construct a route to a historicist approach to democratic liberalism, arguing that democratic liberal principles are only comprehensible, and thus defensible, as responses to determinate historical conditions. He then argues that the workings of contract and tort law reveal that the possibility of civil obligation rests on a conception of the state as a social union. This conception, then, is said to "reintegrat[e] what I would take to be the Hegelian legacy for democratic liberalism" and to underwrite the application of Rawlsian principles of justice (Pinkard 1987: xviii, xiv).

In his characterization of the method of his book, Pinkard contrasts what he calls the "Kantian-critical model" in which "one approaches philosophy and particularly the history of philosophy as resting on some kind of basic, deep, and fundamental *mistake*" with an "Aristotelian-Hegelian" model in which one "sees the alternative theories as alternative explanations of one and the same subject matter" such that "the goodness of a theory lies in its being

a better explanation, not in its avoidance of the crucial mistake” (Pinkard 1987: xvii).²² The explanation Pinkard offers, of the possibility of the state as a social union, is one that attempts to explain “how things such as rights or claims to justice can be possible,” rather than attempting to show that they are necessary or unique (Pinkard 1987: xv, xvn5). What is most striking about this book for the eventual development of Pinkard’s later views is the way in which he integrates the logical-systematic demands of the category theory interpretation with the idea of historicism: by arguing that the contradictions Hegelian political theory resolves are not purely logical but rather capable of arising only in, and are comprehensible only in, specific concrete historical situations.

The problem of this integration is, from another perspective, also the explicit topic of the final two chapters of the book Pinkard published the next year, *Hegel’s Dialectic: The Explanation of Possibility* (Pinkard 1988). As the title indicates, Pinkard here modifies the conception of the “logic of explanation” he had attributed to Hegel in the dissertation, with a special emphasis on the distinction (made in *Democratic Liberalism*) between the (Kantian) transcendental explanation of *necessary* conditions and the (Hegelian) “speculative” explanation of possibility.²³ The main task of the book is to show the dialectic as a logic of explanation operative across Hegel’s entire system. Thus, although Pinkard here still takes the *Science of Logic* to be the central work around which any understanding of the rest of Hegel’s oeuvre is to be arranged,²⁴ he discusses not only the logics of being, essence, and concept, but Hegel’s philosophy of mind, social and political philosophy, and philosophy of history. Although Pinkard was later to describe this work in modest terms as the result of “gather[ing] up some articles I had written on Hegel and publish[ing] them as a book” (Pinkard 1994b: vii), it is clear that *Hegel’s Dialectic* counts as a major statement of Pinkard’s transformative appropriation of the category-theory interpretation – a deepening and extending of that theory into an integrated account of the major aspects of Hegel’s system, demonstrating both their inherent philosophical appeal and their bearing on and interest for contemporary Anglophone thought.

The breadth and appeal of the interpretation Pinkard championed at this time can be seen in an exchange between Pinkard and Frederick Beiser in the *Hegel Bulletin*. Beiser greeted the publication of a *Festschrift* honoring Hartmann after his death with a diatribe aimed at “widely influential” non-metaphysical interpretations generally, but directed more narrowly almost entirely against the category-theory interpretation.²⁵ The basic accusation was that such interpretations were anachronistic and willfully blind to Hegel’s obvious religious and metaphysical commitments. In his typically good-humored response, Pinkard both defends Hartmann and notes that neither the category theory interpretation nor, by implication, the broader class of non-metaphysical interpretations is a monolith (Pinkard 1996). His emphasis in the defense is on Hartmann’s insistence that we understand Hegel as a post-Kantian – that is, as attempting to carry Kant’s critical project

to fulfillment – and that we interpret and evaluate Hegel’s project in light of Hegel’s own philosophical commitments, both implicit and explicit. This latter argument opens up the possibility of concluding that Hegel did not live up to his own standards, and thus that he was not entitled, by his own lights, to this or that “metaphysical” claim he may have made. Pinkard’s point is that while we may reasonably disagree about what Hegel was or was not entitled to say, we need not and in fact cannot abdicate our philosophical evaluative role in interpreting his work. While endorsing these elements of Hartmann’s project, Pinkard located the radicality of Hartmann’s version of the category theory in the wide range of material – particularly, the Hegelian doctrines of history and religion – Hartmann thought must be strictly excluded from a Hegelian system measured by its own standards, namely, the standards of the speculative dialectics of the *Science of Logic*. As we have seen already, Pinkard’s own position was explicitly developed to include concretely actual historical and social categories, while staking out the “uncertain middle ground” of a historically informed, yet expressly philosophically critical reading.

Perhaps even more revealing of Pinkard’s position at this time than his defense of Hartmann is the expansive sense in which he understands the class of non-metaphysical Hegel interpretations, including in it many opposed to the category theory interpretation, like Allen Wood, Sally Sedgwick, Stephen Houlgate, and Kenneth Westphal (Pinkard 1996: 16–8). This list indicates not only Pinkard’s characteristic broad-mindedness but also the transformation his own thinking had undergone since *Democratic Liberalism* and *Hegel’s Dialectic*. Two years prior, Pinkard had indicated very briefly one contributing source for that transformation, writing that after those two works came out, “several new books and articles on Hegel were published, which led me to fundamentally rethink many positions I had taken... [f]oremost among [which] were Robert Pippin’s works on Hegelianism, particularly his *Modernism as a Philosophical Problem*,” and later specifying that Pippin had influenced his own “discussion of Hegel and modernity” by showing how “the philosophical theories of self-determination play into a larger cultural development during this period” (Pinkard 1994b: vii, 349n25).²⁶ Since, as we saw, Pinkard holds that it is “[c]entral to the Hegelian conception of political philosophy” that “one cannot understanding political and moral principles outside the social and historical context from which they draw their life” (Pinkard 1987: xv), and since self-determination plays a central role not only in idealist practical philosophy (as autonomy) but in idealist theoretical philosophy (as apperceptive self-consciousness), and thus also in their systematic unity, it is not surprising that coming across a convincing new account of self-determination in the relevant context would entail considerable changes in Pinkard’s interpretation of idealism.²⁷ Pinkard integrated this account with a further engagement with the work of Wilfrid Sellars, resulting in a reading of Hegel stressing the shared and rule-governed “social space” within which self-determining rational agency is constituted, and within which the dialectical tensions and resolutions in and between competing understandings of

that space take place. One of the changes entailed by these new developments was a reevaluation in Pinkard's next book of the relation between the *Science of Logic* – the systematic foundation of Hegel's idealism, according to the category theory – and the *Phenomenology* – Hegel's most compelling presentation of the thick interdetermination of history, politics, culture, religion, and philosophy constituting such social space.

The publication of that book, *Hegel's Phenomenology: The Sociality of Reason*, in 1994 was a watershed in the interpretation of Hegel's thought. Few books before or since made Hegel's aims and method so intelligible and so alive. Alongside Pippin's 1989 *Hegel's Idealism: The Satisfactions of Self-Consciousness* and Wood's 1990 *Hegel's Ethical Thought*, Pinkard's book helped set the agenda for the explosion of first-rate scholarship in the subsequent 25 years. Pinkard laid out the *Phenomenology's* major thesis (contained in the subtitle) through a rigorous reading of each step in the account. He also provided a host of new historical references for Hegel's moves and gave many readers of the text a lifeline amid the bewildering terminology and abstraction. Here is a typically lucid statement of the Hegelian project:

This historicized theory of knowledge, which takes itself as simply an “appearance,” is thus self-referential, and it must therefore be able to work out how it is that it can come to take itself as underwriting its own claims not by appeal to any transcendent entities or “essences” but only by appeal to its own free-standing practices and the way in which reason – as the principles for evaluating those practices in terms of their own internal normative structure – has itself historically developed.

(Pinkard 1994b: 15)

Pinkard is especially attuned to the way in which our modern form of life is self-referential and thus susceptible to anxieties about the ground of our norms. We need, for Pinkard's Hegel, not only an account of how we got to where we are but also forms of self-reassurance about the authority of our practices.

Pinkard followed up the staggering detail and precision of *Hegel's Phenomenology* with an even greater display of scholarly fortitude: the first major Hegel biography to appear in over a century, and the first ever in English (Pinkard 2000). The biography was justly met with strongly positive reviews in both the scholarly and popular press, lauding Pinkard's command of the details of Hegel's life and milieu, of the broader historical context, and of the ins and outs of the system itself,²⁸ about which one reviewer (and eventual contributor to this volume) wrote that it provided “the most comprehensive and accessible account available of the emerging revisionist reading of Hegel” (Redding 2002: 471). That reading was, like his interpretation of the *Phenomenology*, a historical deepening and extension of the post-Kantian “uncertain middle ground” approach Pinkard had initially pursued by means of category theory, now pursued in a way increasingly anchored in historical detail,

while the terms of its critical philosophical analysis continued to develop in dialogue with emerging Sellarsian positions in philosophy of language and mind.²⁹

In 2002 Pinkard expanded the historical and cultural scope of his inquiries in *German Philosophy 1760–1860: The Legacy of Idealism* (Pinkard 2002), a history of the philosophy, politics, and broader culture of the Kantian and post-Kantian era. Although in his Hegel biography he had elucidated Hegel's thought as a response to the seemingly irresolvable tensions between the conflicting commitments constituting the social space of modern life, he now brought that same approach to a much broader range of figures and events. The organizing idea of his treatment of this era is the formulation of and attempt to resolve what Pinkard (following Pippin) calls the "Kantian paradox."³⁰ The question remained that of the philosophy, but also the institutions and practices, in which self-determination was carried out and reflected upon (thus maintaining, in a historically concrete articulation, the circular, self-validating, no-metalevel structure of dialectics as a logic of explanation), and our ability to understand them as capable of giving us a resolution of the paradox.

Over the next decade, due in part to the influence of debates around Wittgenstein's concept of a form of life and its relation to revived Aristotelian and Sellarsian positions in the philosophy of mind, but due also to the apparent success of various non-metaphysical interpretations in making sense of Hegel's *Realphilosophie*, scholarly interest in Hegel's own mature philosophy of mind, as laid out in the *Encyclopedia*, began to grow. Pinkard had already devoted a section of his *Hegel's Dialectic* to that (at the time wholly neglected) text, but he now offered in his *Hegel's Naturalism* a book-length exposition. There he presented a unified interpretation of Hegel's conception of embodied human mindedness within the context of what he called "disenchanted Aristotelian naturalism" (Pinkard 2012: 19). Such a unified interpretation required not only a reading of the *Encyclopedia's* sections on Subjective Spirit (E §§387–482) and Objective Spirit (E §§483–552) alongside PR but also a reading of the relevant material on animal life from the Organics in the *Encyclopedia's* Philosophy of Nature (E §§350–76). Pinkard's reading proposed, contrary to the dominant understanding both within and outside the family of non-metaphysical interpretations, that Hegel's disenchanted Aristotelian naturalism counted as a genuine naturalism, insofar as it included a conception of natural normativity. Such normativity is not, for Pinkard, a reductive basis for conceptual normativity, but neither does the latter simply leave the former behind. Once again Pinkard's work contributed decisively to the development of a rich and ongoing engagement with this material from many different interpretive positions.

In 2017 Pinkard published *Does History Make Sense? Hegel on the Historical Shapes of Justice*, giving a full articulation to the various elucidations he had offered in earlier work on Hegel's philosophy of history (and thus also on his moral and political philosophy). Taking Hegel as the decisive philosopher of

modernity, Pinkard argued that his philosophy of history is distinguished by the claim that “a social conception of subjectivity” demonstrates “an ‘infinite’ end at work in history – that of securing justice – which in modern times” means “a concern with justice as freedom.” This demonstration involves showing “how historically the metaphysics of subjectivity... has changed” as “the nature of the ‘infinite ends’ of subjectivity” has changed, such that “our ‘agency’ actually changes its shape over time” (Pinkard 2017: 3–4). This metaphysics of subjectivity – a self-understanding within and constitutive of apperceptive self-consciousness as the human form of life – brings Hegel together with recent neo-Aristotelian conceptions of our mindedness, themselves clearly tied to the sort of position Pinkard articulated in *Hegel’s Naturalism*. Against this background a version of Pinkard’s earlier claim that democratic liberal principles could only have determinate content when understood as a contextual response to contradictions and tensions in historically, determinate forms of life is extended into a general thesis about history and subjectivity, and shown to explain the modern concern with freedom specifically.

Apparently not finding his other labors sufficiently burdensome, Pinkard had been working on a new complete translation of Hegel’s *Phenomenology of Spirit* since the mid-2000s, eventually making it available online and gamely entertaining various criticisms and suggestions for improvement. The fruit of this long labor was published in 2018, in the Cambridge Hegel Translations series.³¹ The translation is typically Pinkardian: clear, uncluttered, and direct, with a helpful but unobtrusive apparatus. It marks yet another major contribution to his lifelong efforts in making Hegel accessible to Anglophone philosophical culture.

Pinkard’s most recent book – *Practice, Power, and Forms of Life: Sartre’s Appropriation of Hegel and Marx* – marks a return to the authors and themes that first drew Pinkard to philosophy as an undergraduate. What he shows us is a Sartre opened up through his relation to the Hegel Pinkard’s work has helped us to see. In the book, Pinkard argues that we can best understand the later Sartre’s claim that agency involves “a first-person plural apperception (‘We’) alongside... first-person singular apperception (‘I’)” as emerging from “Sartre’s newly found appreciation for the Hegelian side of the Marxism to which he had become attracted after 1946” (Pinkard 2022: x). Pinkard traces the roots of this later Sartrean idea to his *Transcendence of the Ego*, before turning to the *Critique of Dialectical Reason* for its full development.

We pass over here the many interviews, articles, talks, and seminars in which Pinkard has developed, discussed, and defended his interpretation, tying it closely to the Hegelian text while enthusiastically taking up the opportunity to put Hegel in dialogue with our contemporaries. If the range of their topics – Adorno, Pragmatism, Arendt, Wittgenstein, tragedy, and music, to pick just a few³² – is astonishing, no less astonishing is their consistent clarity and clarifying intent. But the above sketch of his major writings should give a sense of the richness, openness, and power of his contributions – even if it can do only a poor job of conveying the effect of the man as a teacher.

4

On the 200th anniversary of Hegel's *Philosophy of Right*, the essays in this volume pay tribute to Pinkard's deep and lasting influence upon Hegelian thought and scholarship. Nobody has done more than Pinkard to advance our understanding of Hegel's work and draw out the implications of his approach for contemporary debates within philosophy. Pinkard has, moreover, accomplished this while being enormously generous with colleagues and students alike, thereby fostering new generations of Hegel scholars, illuminating the striking relevance of Hegel's thought for an extensive number of philosophical debates, and introducing Hegel to a wider philosophical audience, including those steeped primarily in the analytic tradition. It is thus only fitting that we honor Pinkard while recognizing and commending the enduring significance of Hegel's celebrated text.

Notes

- 1 Rawls (1985: 236).
- 2 Pinkard (2000: 457–61).
- 3 For some of this work see Pinkard (2012), especially Chapter 7.
- 4 Pinkard (2012), especially Chapters 1 and 2.
- 5 Pinkard (1975: xii).
- 6 Cohen (2005); Martin (2009); Pinkard and Marshall (2015).
- 7 Pinkard and Marshall (2015).
- 8 Pinkard (1975: xii).
- 9 Pinkard (1975: xi, 1987 vii, 1988: vii, 1991, 1994a: 181).
- 10 See, e.g., Hartmann (1966a, 1972). See Pinkard (1991, 1996, 2008: 135–7) for Pinkard's own summaries of Hartmann's interpretation; my account here draws on both.
- 11 Hartmann (1972).
- 12 See Bennett (1966); Strawson (1966); Pinkard (2008: 139).
- 13 But note the account of a contemporary fellow student of Hartmann at UT-Austin: "It was Hartmann's recurrently uncompromising stress on careful argument and thorough scholarship that attracted students. He offered a disciplined, serious approach to Hegel and Continental philosophy" (Engelhardt 1994: 226).
- 14 In later texts he identifies his approach as following an "Aristotelian-Hegelian model" (Pinkard 1987: xvii), or says that he does not "offer a commentary on Hegel but... what I take to be a Hegelian understanding of the notion of the state" (Pinkard 1994a: 163), or again that "instead of a commentary, I offer a kind of Hegelian analysis of Hegel's text itself" (Pinkard 1994b: 3), or lastly that from his interpretation's intended "point of view it is, as it were, a Hegelian commentary on Hegel's work" (Pinkard 2017: 4).
- 15 Years later Pinkard describes Hegel's *Logic* in strikingly similar terms as "a general account of explanatory adequacy, an account of accounts" (Pinkard 2017: 5).
- 16 See the similar claim at Pinkard (2017: 5).
- 17 Pinkard (1979a, 1979b, 1981).
- 18 Pinkard (1978), foreshadowing Pinkard (2022, 1980a, 1980b).
- 19 Hartmann 1963 (note the full title); Hartmann (1966b). Engelhardt notes that "Hartmann never in his lifetime published a volume on Hegel. Yet... Hartmann began his presentations of Marx, Husserl, and Sartre against the background of Hegel's work" (Engelhardt 1994).

- 20 Resulting in Hartmann (1984).
- 21 Pinkard (1975: 265).
- 22 The Aristotelian roots of the category theory are evident in the name, as Pinkard points out later: “Hartmann sees Hegel’s project as a descendant therefore of both Aristotle’s theory of the categories and Kant’s transcendental justification of the categories” (Pinkard 1988: 178n11).
- 23 In the dissertation, Pinkard had written that transcendental arguments in the Hegelian sense “are concerned with developing and justifying the basic *a priori* concepts of the epistemic scheme; their purpose is to lay out the possible conditions of any scheme” such that “if a person comes up with some new, alternative scheme, he will not be able to make it intelligible except in terms of the concepts with the transcendental philosophy has developed” and such that “it provide[s] the basic concepts in terms of which one could speak at all” (Pinkard 1975: 389–90). While the position articulated in *Hegel’s Dialectic* may be more Kantian than those he developed later, it is decidedly less Kantian than the position taken in the dissertation.
- 24 Pinkard (1988: 8–9).
- 25 Beiser (1995), reviewing Engelhardt and Pinkard (1994).
- 26 Compare Pinkard (2002: ix).
- 27 See Redding (2006: 13–5) and Chapter 5 of Corti (2014) for other accounts of the changes Pinkard made in his views during this period.
- 28 See, among others, Donelan (2000); Mattick (2000); Quinton (2001); Redding (2002); Steiner (2000).
- 29 For instance those in Brandom (1994) and McDowell (1994). Pinkard (1994b) frequently draws on the earlier, directly Sellarsian interpretation found in de Vries 1988 (and Sellars was a point of reference already in the dissertation).
- 30 “The paradox arises from Kant’s demand that, if we are to impose a principle (a maxim, the moral law) on ourselves, then presumably we must have a *reason* to do so; but if there were an antecedent reason to adopt that principle, then that reason would not itself be self-imposed; yet for it to be binding on us, it had to be (or at least had to be ‘regarded’ to be, as Kant ambiguously stated) self-imposed” (Pinkard 2002: 59).
- 31 Hegel (2017).
- 32 Pinkard (2020, 2018a, 2018b, 2019, 2015, 2013).

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Part 1

The Frame of Right



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1 Mind Your Ps and Qs

Thinking through Hegel on Provisionality and Qualification

Lydia Goehr

My title is drawn from William James's *Some Problems of Philosophy* (James 1911: 49). Looking back to German Idealism and to one of the oldest problems in the books—whether concepts of the world can bypass perceptual experience—James advises us to mind our Ps and Qs. If the mind, more than manners or letters, can lead philosophy astray, then the mind is where the errors must be corrected.

My subtitle attaches the letters P and Q to two terms drawn from Terry Pinkard's conclusion to his *Hegel's Phenomenology: The Sociality of Reason* (Pinkard 1994: 339ff.). Here, Pinkard surmises that the Hegelian resolution to modernity's problem is and even must be *provisional* and *qualified*. To so speak of the problem and its resolution is for Pinkard to engage the sense of an ending that so preoccupied Hegel when, pursuing the absolute, Hegel articulated the terms of reason's place, achievement, and role in a theory committed to freedom and right. Pinkard introduces the terms "provisionality" and "qualification" in part to counter the tendency to find in Hegel's arrival at the modernist moment a hard, final, or complete result. This would be a result that left reasoning with nothing more to do, given a claimed identity of the "what is" of the current state with "what is right." Today, if not already in the 1990s, the counter proposals to Hegel's right-readings are no longer counter but mainstream. They carry the strains of a post-Hegelian pragmatism and critical theory to discredit the authoritarian tendency in the Hegelian world picture in favor of regard for what is provisional and qualified in the social or political organization of rights in the modern state. But the question remains: is this regard toward the provisional and qualified itself provisional and qualified?

Beginning with Pinkard's take on the Ps and Qs in Hegel's social theory, this essay thereafter surveys a broader scholarship on the Ps and Qs of endings, beginnings, and everything in between. It draws out potential confusions when Hegel's terms are transmitted through translation, and when social or political theory submits to a critique that is identified with philosophy as an overall *Wissenschaft*: an overall science of knowing. If one follows the claim current today that "all theory, social or political, is provisional," does the claim go all the way up or down? When one claims the P and Q of

all theory, is the claim the same as when the Ps and Qs are applied to *theories* in the plural? If all political theories are provisional, does this mean that the “all” of all theory is provisional? Does the claim of provisionality of all theory risk paradox or redundancy as when some claim that “all is relative”? Or is the point to retain in the mind an *all* of the absolute that is not provisional precisely to keep *critique* ongoing in its assessment of the all that is and must be provisional or qualified?

My investigation draws from my most recent book on the emancipation theses that have declared all sorts of modernist ends and new beginnings to art, religion, history, and philosophy (Goehr 2021a). For this book, I brought together two proverbial lines from Hegel’s prefaces to his *Phenomenology* and *Philosophy of Right*. One line regarded the cows that recede into the blackness of non-appearance at night while the other tracked the flight of the Owl of Minerva beginning with the gathering of the greying clouds. I pursued the contrasts of black (white) and grey as part of a color theory that inspired Goethe to let Mephistopheles declare that “all theory, dear friends, is grey” after which came to finish the line: “*Und Grün des Lebens goldner Baum.*”¹ By use of the “*und*,” I suggested, Goethe wanted to bring theory and life back together, and that this would happen only if the claim of *all* theory was released from an overall monotony of grey, or, in different terms, from a monochromatic formalism where generalization and abstraction worked only in a detachment from the mediation of experience, the mediation of the particular and concrete. Pursuing the cows and the owl, I focused on the standpoint of absolute philosophy that was willing, in Hegel’s terms, to throw away the palette of a *Grau in Grau* to prescribe a form of life a priori, before, that is, the form had fully revealed itself through history’s concrete determinations of its shape and substance. How, I asked, could the doubling up of the *Grau in Grau* release the modern world picture from a false or greyed form of monotony and monochromy?

Just prior to calling up Minerva’s owl, Hegel envisaged the philosopher as a child of his time, but with a timing such that philosophy comes to its knowing only in the grey of its maturity, hence *only* late and hence *too* late to “issue instructions as to how the world ought to be” (*das Belehren, wie die Welt sein soll*). “As the thought [*der Gedanke*] of the world,” Hegel wrote, philosophy

appears only/first [*erst*] at a time when the actuality/reality [*Wirklichkeit*] has gone through and completed [*vollendet*] its *Bildungsprozeß*, when the maturity [*der Reife*] has been attained so that the ideal appears opposite [*gegenüber erscheint*] the real and, by grasping its substance, (re)builds [*erbaut*] the shape or form in an intellectual [*intellektuellen*] realm.

(PR 23/ TWA 7:28)

The “appearing opposite” suggested a distance and difference maintained in any re-building and, with this, in any final, absolute claim of identity. Hegel had already doubled up on his use of the term of instruction, to say

of philosophy's perspective on the state (*Staat*) that "*die Belehrung*" is not of instruction (*zu belehren*) but much more (*sondern vielmehr*) how "*das sittliche Universum*" comes to be re-cognized or known (*erkannt werden soll*) (PR 21/TWA 7:26). The entire thought carried the sense of repetition, a doing something again from a different standpoint.

Thinking through philosophy's palette of grays to re-produce the shape of life in an intellectual realm, I investigated why Hegel had drawn the technique of monochromatic painting in *Grau in Grau* from art's history. Given the doubled-up gray, did the age of philosophy's world-picture anticipate a new form of life by laying an architectural foundation or by drawing lines in the ground (*Grundlinien*)? If so, how little or much could a philosopher say about what from the *sittliche Universum* of the old life was carried forward into the new life without contradicting the prohibition on prescription? But then, there was the more extreme thought, that the ending at the modernist moment stood also for a cold death voided of all possibility for any life to be renewed. Lifelong, Hegel charged others with taking a one-sided standpoint as regards all the binaries regarding, say, the abstract and concrete, universal and particular, the one and the many. One-sidedness stopped the logic of the dialectic in its tracks, leaving a stasis that he associated with coldness and irony. Irony need not have to be cold, but it became cold when any standpoint of thought rigidly or frigidly killed off its contrary, its opposition, its *other*. Hegel articulated the terms of the mediation between identity and difference, the ideal and the real, which, while releasing the absolute knowing and the implied self-consciousness from a history of servitude, still left the achieved Idea of freedom awaiting its actualization in the social practice.

Why, or to what extent, did Hegel refuse the Idea of freedom a prescriptive or instructional role? Was it to avoid overstepping the limits of philosophy, a way to separate philosophy from a local social or political theory? What then was a philosophy of right? Was it a philosophy of all possible theories of right(s)? This last question is the core question of the present essay.

For my book project but for reasons unnecessary to repeat here, I was interested in the residual role of contrary qualities, hot and cold, tall and short, etc. in German Idealism and in the proverbial and biblical wit of the standpoint war in Jena that had led Hegel to sit as a friend and enemy with others around the same table. I mention this only to remind readers that minding one's Ps and Qs was always a proverbial instruction for good table manners, where P stood for *please* and Q for the cutting edge between the 'k' of in the word *thank* and the 'y' of *you*. The edge always became more cutting, however, when persons were instructed not to piss at a table when unqualified to do so.

To mind one's Ps and Qs is to give space to the practice of critique that tests the practice of belief and principle among participants who are encouraged to play the game freely, with the qualification of certification, preparedness, and competence. With my own (smiling) proviso of not being a devoted Hegel "scholar," I nevertheless join the table to propose that, for Hegel, the

philosophy of right is refused its standpoint to instruct as a political theory instructs, so that, granted its task of critique, it assumes a standpoint that must be neither provisional nor qualified. In pragmatist and critical theory, we read a lot about a “hesitant openness” in the philosopher’s waiting room that allows reflection to follow upon participation, while yet the participation cannot do without the reflection (Goehr 2021b). As a critique, philosophy assesses and tests the reasoning and justification (*Rechtfertigung*) of ideals, principles, and beliefs that on the local grounds of everyday practices shape through a local reasoning the intentions and beliefs that lead persons to do, to act, and to make. The critique is a reasoning or thinking through the reasoning on the ground, a reasoning about the reasoning that is inextricable from history, the reason that with a present perspective assesses the past’s future and the future’s past.

A brief etymological excursus tells us that “provisionality” and “qualification” have spread with hardened and softened meanings across disciplines, fields, lands, and seas. Both terms have assumed crucial negative and positive connotations. In the Hegelian dialectic, Ps and Qs have moved often positively as negations of a false positivity or to counter a civil right historically provisioned by the proviso that only certain persons (of a specific age, gender, religion, or race) are included. The first Amendment provisions but also qualifies the freedom to speak for good and bad reasons, and the reasons may change given new views and situations. So, too, for every right or law—for those at least who unpack the provisionality and qualification in terms of what must be constantly tested, contested, and revised given a character that is taken to be hypothetical, conjectural, temporary, tentative, uncertain, non-guaranteed, or incomplete. All these terms are offered as a counter weight in a society regarded as close-minded regarding, say, the US Constitution, as a counter weight to *originalists*, so-called, who see the meanings of rights and laws (as others see artworks) as not subject to the sort of interpretation that can and has to adapt or alter over time. But what limits, if any, are then proposed on the provision of the changing provisionality and qualifications? Another association of terms attaches provisionality to first proposals, to improvisations, intuitions, sketches, and anticipations, to first stabs or trials, or to beginnings that call then for the difficult mental labor toward desired ends. Overall, provisionality and qualification can mean much and little, sometimes making mountains out of molehills and sometimes molehills out of mountains.

In German, corresponding words range from *qualifiziert* and *provisorisch* to *Versuch*, *Provisorium*, *Bedingung*, *Bestimmung*, *Klausel*, *Ausbilden*, *Berechtigen*, *Ausprobieren*, and *Approbieren*, to *schweben*, *interimistisch*, and *vorläufig*. Addressing conditions, states, and results, these terms pertain to metaphysical or ontological quarrels of necessity and contingency, to whether beginning or endings are self-determining, conditioned, or contingent, or, as with the term “*Zwischenergebnis*,” whether the result is explicitly declared provisional. Hegel used some but not all of these terms, while translators have used sometimes many

terms where Hegel or his German interpreters used only one. Translation and transmission render Hegel's claims even more complex than they already are.

Hegel narrated a world history about the rise and fall of societies, about the errors of consciousness and conscience that led minds astray. He wrote from the standpoint where such errors could be described as such even if they were not known to be errors in their times when ruling the roost. The cunning of reason worked through the history from the beginning as a drive toward the sort of knowing made explicit as philosophy only at the end. Yet, in the end, the knowing of philosophy would become far distanced from all the local theories of social organization on the way if the truth now *formalized* by philosophy's demand became an empty nothing. How then could the non-provisional and non-qualified standpoint of a final knowing engage the provisionality and qualification of a particular social or political theory? Was it the failure of an ongoing engagement that made for the modernist problem, which, not calling for a final resolution, called still for a recognition of its urgency? But was the modernist problem not then a version of the oldest problem in the books: of the relation of philosophy's reflection to forms of political or social life, where the truth toward which the former aspired revealed the necessary untruth of the latter?

In his 1994 study of Hegel's *sociality of reason*, Pinkard proposes a "third possibility," which less than following upon a first and a second possibility more brings the book's broad range of reflections to its conclusion. The third possibility is the "provisional and qualified" resolution he recommends by reference to what he regards as cryptic lines in the preface to the *Philosophy of Right*. Here, philosophy is "its own time apprehended in thoughts" and for this apprehension paints a shape of life "grown old" with "its grey in grey." Pinkard assumes a particular stance on these lines to argue, and I quote:

...that Hegel himself believed that the kind of reconciliation that he thought modern life was in principle capable of achieving for itself in the middle of the nineteenth century could itself only be provisional; that the accounts that it gave itself would undermine themselves by failing to live up to their own objectives both because of internal difficulties and because of the way in which the dynamics of that form of life would bring about circumstances in which the aims and general purposes of certain institutions would become impossible to realize, even though he could not predict what form those insufficiencies would take.

(Pinkard 1994: 339)

To speak of the middle of the nineteenth century was to describe a social situation after Hegel, a future unknown to him and then unknown to all insofar as the future is never known in its actuality. More than this, it was to associate modernity with a promise of freedom made in the present where the present is known for the failure of a form of life to live up to its promise or, in Pinkard's terms, to its objectives given what has to be a *provisional*

resolution. With these terms, the resolution as a modernist solution is pre-supposed from the outset to fail. But why? Were earlier resolutions not also necessarily failing solutions to problems, not also errors measured against an unfolding truth, even while presented and promoted as genuine attempts at social organization? What did the modernist moment reveal about all forms of social organization? Was it that they were always provisional on the way to something different and hopefully better as they had always been? But why then stress the failure? Had the failure more to do with the conceit of claiming a provisional solution not provisional or with modernity's end in its ironic recognition that no social organization, not even or most especially the most revolutionary, could claim its harmony or identity with the now cognized Idea of freedom? Did the progressivist narrative of world history not lose its teleological drive precisely in the modernist moment of claiming the provisionality of any and all attempt at concrete forms of social organization?

Pinkard draws from Hegel's terms of world history and from the passage in the *Phenomenology* to ask after the continuance of "the patriarchal family" when political equality and an open market were internalized into a new form of life. Following this, he writes:

The certification of any claim to knowledge or any assertion of a binding practical principle depends on the ways in which it answers to the historical insufficiencies of previous accounts; this points to the idea that any *allegedly* final account can itself only be *provisionally* final, that it too must be expected to undermine itself as the conditions under which it is to be realized develop themselves (for example, that it will *fail* to accomplish the aims that it sets as definitive for whether it can count as a success).

(Pinkard 1994: 339–40)

As the end-point, aim, or purpose (*Zweck*), freedom's "provisional accomplishment" marks a moment as to what goes for now, while yet, Pinkard adds, paving the way for "a new and different realization ... in different circumstances" (Pinkard 1994: 340). Here, the necessary failure or insufficiency turns dialectically into something wanted. So why not, to repeat, speak of the success of a provisional resolution that necessitates a *renewal*, a "self-renewing of what is reconciliatory in the modern world" (Pinkard 1994: 340) as regards the institutions and practices that count as "realizations" of freedom "even if only" provisionally and incompletely. Why the "even if only"? In a bracket, Pinkard notes the irony in the resolution, an *irony* running through the *Philosophy of Right* (PR), where, far from leaving nothing for a reason to do, the reason is left with nearly everything still to do at an end that proclaims a provisionality as regards everything it seems—except the one thing: reaching the consciousness of the Idea of freedom.

What matters most for Pinkard is the provisionality that strips from a living practice the workings of *unquestioned* authority. Provisionality as constitutive of the *praxis* of *Sittlichkeit* grants participants a space for reasoning as regards

the laws and principles shaping their beliefs, intentions, and actions. The reasoning is a marker of a non-negotiable and non-provisional freedom for the provisions of rights and laws to be treated as provisional, as there for the people and not they for them. Pinkard describes Hegel's modern *Sittlichkeit* as *expressing* and *enabling* institutions or practices rationalized by a reflective self-consciousness and rendered *intelligible* by justificatory reasoning sustaining their *rightness*. Free participation means that participants consider whether the form of life lives up to the terms it sets for itself. The self-setting up is the key claim to capture how participants *find* themselves in practices which yet they *remake* in the image of their own reasoning and justification.

One senses in this picture a Schillerian reflectiveness contra a naivety, when free participation is a refusal of the self-evidence of a life-form, a refusal to take it for granted. We might recall the rightness Thomas Jefferson claimed of the Declaration of Independence, that its moment had arrived henceforth to stand as self-evident for all (or for all at least who were allowed to stand equally before its law). Pinkard describes the authority carried through free participation, not that of the alienating tyrannical hand, but of a community locally engaging daily tasks of a practice, tasks, in daily terms, authorized as *making sense*. But then, making sense as a way of freely submitting to a practice means that one does what the practice demands of one without questioning it *each day* from the ground up.

Here emerges a crucial distinction: to participate daily is not to do what, alone, the philosophical mind does when stepping *outside* a form of life to assess its grounds *independently* and *fully*. For the practice to work for participants, it must assume the ground of reasoning as a background, as a habituated sort of atmosphere or climate, or as Pinkard says, a second nature or common sense. The intelligibility for participants becomes then not locally provisional even as participants reason within its qualified limits, while yet it remains provisional to the non-participant who stands outside assessing it from a non-provisional standpoint. Only from the latter standpoint does one grant the provisionality of the organization authorized for a daily non-provisionality from within.

One sort of provisionality is thus granted by the independent, detached, and impersonal standpoint that assesses a form of life, in Pinkard's words, regardless of the *exigencies* of social or political activity, or regardless of "the humdrum of daily cooperative life in the market" (Pinkard 1994: 342). But why call daily participation *humdrum* if participants are freely engaging in daily practices such as voting for a president? Pinkard is correct to say that, in voting, one need not justify the entire electoral process, yet voting is hardly humdrum when the vote counts. And in a democracy, the vote counts the most. Perhaps the *humdrum* is a tired residue coming from those who denigrate anything but the philosophical standpoint. But then, this standpoint can fail too.

Consider Hegel's own critique of the philosopher who does not engage in the right way the absolute standpoint that alone allows one to reveal the

contradiction or necessary failure of any particular form of life to live up fully or completely to the Idea of freedom. Philosophy fails when, as a professionalized form of life within the university, its claimed independence turns to impotence, to a peripherality of celebrated or ideological uselessness, paradoxically by setting aside its pursuit of what is non-provisional by provisioning itself with all the success and benefits of the institution. Or, as Pinkard puts it on Hegel's behalf, if the modern institutions of art, religion, and philosophy cannot withstand their own internal skepticism as regards their pursuit of the absolute, then "the self-renewing task of absolute knowing" (Pinkard 1994: 343) only affirms, without critiquing, the provisions and provisionality of the institutions that support but never exhaust them. The triadic "we" of art, religion, and philosophy soon capitulates to a self-deceived foolery, which is what Hegel, so Pinkard surmises, saw in Prussia if not also in France, persuading Pinkard once more to stress Hegel's provisional resolution: that Hegel offered not a once and for all finished "system," but an ongoing series of dialectical reflections on the possibilities available to the human community.

I have worked through Pinkard's third possibility to expose the much that provisionality and qualification can mean when it *qualifies* a philosophical view about philosophy under the modernist condition, or a philosophical standpoint as regards the provisionality and provisions of a local political theory. Surveying Pinkard's writings after 1999, we find in his biography of Hegel (Pinkard 2000: 340) a reference to the provisionality of Hegel's early work on logic from 1808 to 1809, but where all the provisionality means is that the early view was promoted tentatively before being fully worked out. From his *Does History Make Sense?* (Pinkard 2017), we read with more consequence of how Hegel opted not for a timeless unchanging core to ethics but for a view wherein universal concepts become intelligible only through their "provisional instantiations" in real struggles for recognition and power (Pinkard 2017: 149). And finally, in his recent work on naturalism, provisionality and qualification follow from the historical and dialectical logic of stages, spheres, states, or conditions, and as such assume an urgency regarding human history precisely because the history is not and cannot be guaranteed by the order or patterns of a nature independent of mind. Here, the Ps and Qs produce a human history driven by antinomies and contradictions that make absolute knowledge possible in the right way. Alone from the human history, Pinkard concludes on Hegel's behalf, do we get the "good infinity" that allows for "the historical development of a space of reasons" contra the "bad infinity," which, turning infinite into a dead finite, would be an unconditional or unqualified ground for a praxis (Pinkard 2012).²

If, now, the good infinity understands itself from an unconditional and unqualified point of view to safeguard against the false promotion of such a ground or stand from *within* the praxis, the outside that is working on the inside becomes the operation of philosophy's ongoing critique. Here, one might say, we move from the domain of a pure logic to the hermeneutics demanded of theory's relation to practice. Or, from one perspective, the logic

works itself out according to its own terms; but from the other, it works itself through the world. Characterizing Hegel's *Sittlichkeit* as a "realm of actualized freedom," Fred Neuhouser writes: the freedom that is independent, necessary, and self-sufficient must engage its determinacy since, with Hegel, "[s]pirit's freedom is an independence from the other that is achieved not *outside* the other but *in* the other" (Neuhouser 2000: 19). All theories of social forms of life that engage the determinations of freedom are thus provisional so long as the theories are regulated or, perhaps even, constituted by values independently consistent with freedom. The independence of the freedom is alone non-provisional, the independence being philosophy's task to preserve. But then everything turns on what *independence* means by way of an ongoing *mediation* if it is to avoid an empty formality or a promotion to a false ideological standpoint.

In a well-known passage from the *Philosophy of Right* (PR §256), Hegel describes the Idea of the state emerging as the result (*als Resultat erscheint*), as that to which the family form and civil society has given way. The result is the scientific or philosophical concept (*Begriff*) and the arrival at the true ground (*wahrhafter Grund*). On the way, every mediation (*jene Vermittlung*) as much as every appearance (*Schein*) cancels itself out so that the moral substance (*sittliche Substanz*) assumes in its immediacy an infinite form (*unendliche Form*). The form of thought follows from the *Bildung* to reach a self-consciousness of itself, allowing the *Geist* that has organized what is objective and real in laws and institutions to resolve into an organic totality (*als organische Totalität*). The question is what remains of the Ps and Qs when the *result* is described from this resolved standpoint.

Translating this passage in 1896, Samuel Waters Dyde offers: "The appearance and its process are provisional, and must now be replaced by the state in its direct existence. In actual fact the state is in general primary" (Hegel 2005: 132). In his Oxford edition, T. M. Knox sticks much closer to the original:

Since the state appears as a *result* in the development of the scientific concept through displaying itself as the *true* ground [of the earlier phases], that mediation and semblance cancel themselves in favor of immediacy. In actuality, therefore, the state as such is rather what is first.

(Hegel 2008: 227)

In the Cambridge edition, H. B. Nisbet also sticks close to the original (Hegel 1991a: 273).

The provisionality, introduced by Dyde, is predicated on the mediation of appearances on the way, but not on the result that, as regarded by Hegel, is both origin and goal. In one of his Heidelberg essays, Hegel declared: "What is the last is known/recognized as the first [*Was das Letzte ist, ist als das Erste erkannt*]" (TWA 4:437). When the *Produkt* becomes discovered as the point, goal, or purpose, it is at the absolute endpoint, but where this means that it is much more explained (*vielmehr ... erklärt*) as the immediate first moving

thing (*für das unmittelbare, erste Bewegende*). Between the first move and the last, the coming to know is the dialectical *Bewegung* in the *Bildung*. What is provisional on the way regarding both the subject's consciousness of the idea and the objective social form is locally qualified until the infinity assumes the unconditioned identity of the beginning and end. Everything then turns on whether the unconditioned identity continues to carry what was non-identical forward, to prevent the identity becoming a one-sided, dead positive. No cancellation in the *Aufhebung* is supposed to leave an empty shell, but a recollection (literally a re-collecting) of all the labor and history that has brought the mind to the result. A product is not meant to forget the productivity of the mind: when it does, it is because the production has become a cold alienated process. Nor must the result, the Idea of the State, throw away all the ways of knowing and reasoning on the ground that give life to the form of political or social life, if, that is, a past form is to give way to a new one. The absolute standpoint subsumes without obliterating the other standpoints if the one is to take in the many, the outside the inside, the non-provisional the provisional.

In his early essay of 1802/1803 entitled *On the Scientific Ways of Treating Natural Law, on its Place in Practical Philosophy, and its Relation to the Positive Sciences of Right*, Hegel describes the determinacy, all the Ps and Qs, that the philosophical knower strives to step away from to assume an inner, pure, and free standpoint (TWA 2:436ff.). Here is the purely contemplative life of reflection. Even as most scientific or artistic modes of abstraction strive to reflect on the *absolute life* that is *expressed* in *every living thing*, their striving does not reach the reflection on the pure form of the Idea. Philosophy alone *divests* all singularity (*Einzelheit*) of intuition and image, all mediation of expression and appearance (excepting the philosophical form of articulation) according to the logic that brings reason to the purely ideal or intellectual realm. All standpoints, other than philosophy, are thus limited in some way, by locality of domain, interest, or medium. Yet, all are provisional or qualified without this meaning that they thereby offer nothing. As the absolute standpoint, philosophy stands *alone* but *not in isolation* from its *others*: namely, religion, art, and the entire range of empirical sciences. To stand in isolation would render the divestment and with this the investment in knowledge, empty of "real" purpose.

Today, we tend to balk at the thought of philosophy so lording or queening it over the other disciplines. But not all philosophy has to assume this aristocratic posture. We might rather seek in reason's task its relation to other sciences and arts as a *relative autonomy* or *independence*, precisely to sustain its task as critique: to assess practice from the inside out and outside in. To assume an independence is not to condemn other modes of knowledge as provisional or qualified, but to understand the advantage of their limits and hence provision of a local knowledge without which praxis cannot do. Today, by separating the philosophical critique from the department of professionalized philosophers, we share it among knowledge-gathers of the sciences

and arts who, while doing what they do, are able also to work through the thinking, the critique, for themselves.

Hegel forcefully condemns a philosophy that suspends its independence to ally or even identify itself with an empirical or practical science. But this is because he sees the alliance as brokering a false positivism and dogmatism. Philosophy's justification of a science means neither alliance nor blind affirmation, but a critique that, through the interdependence or mediation of independence, preserves the tension between the finite and infinite, limited and unlimited, conditioned and unconditioned, provisional and non-provisional. With an extraordinary metaphor oriented to the subject of natural law, he describes the

...rings on the surface of water which spread concentrically outwards from the point of disturbance [*die Kreise auf der Oberfläche des Wassers von dem Punkt an, wo es bewegt wird, sich konzentrisch ausbreiten*] until, in tiny movements, they lose their connection with the center and become infinite – grew ever greater, from weaker beginnings in earlier scientific endeavors through the constraints of barbarism, until it came to understand itself in the critical philosophy by means of the absolute concept of infinity and, as infinity, is in turn superseded.

(NL 104/TWA 4:437)

Regarding the *Wissenschaft* of natural law, Hegel addresses the mixture of empirical provisions that are driven or guided by what is essential, necessary, and ideal. Only through the drive do all sciences come to the unity of knowledge, which philosophy then makes explicit as the order and connectedness of all things. Hegel sees this connectedness (*Zusammenhang*) as most evident and direct (*am nächsten*) in natural law given its immediate reference to the ethical (*das Sittliche*) regarded as the prime mover of all human things. Because the science of the ethical has an existence (*Dasein*), natural law can be seen as belonging to the realm of necessity. The unity afforded by the necessity brings the empirical shape, by its opposition, to oneness and expression with the form of universality. For any given science, the unity is relative or incomplete and must be so understood to avoid two inauthentic (*unechten*) extremes: of bland empiricism, on the one hand, and of emptiness or pure formality, on the other. A purely *formal* science, Hegel explains, is that “form of science in which the opposition [of form and content] is absolute, and pure unity (or infinity, the negative absolute) is completely divorced from the content and posited for itself.” The treatment of natural law, and of the sciences, in particular, proceeds thereafter only from the proper understanding of the absolute opposition of absolute form to empirical determination or qualification as a canceling (*Aufhebung*) of one side of the opposition, where the *Aufhebung* is a form of *revelation*, a bringing of the absolute idea to appearance within the opposition, without yet that negation inverting itself into a vain positivity of organization. There is, accordingly, no purely positive science of

right that can entirely escape the rings of critique afforded by the immanent negation of the philosophical standpoint. Where there is an escape, the positive science of right becomes not free but ideological, where, in the schema of cancelation, ideology marks the move and moment when the ideal reasoning makes a false pact of affirmation with what is necessarily provisional and qualified in a local practice. When, then, it is said that what is here today is *once and for all* right, we are in wading in the most dangerous of waters. Formalism in philosophy or any science may become empty or blind in both the right and the wrong ways.

In the finale on the absolute idea in Hegel's *Wissenschaft der Logik*, the philosophical method is described as winding in a circle (*in einen Kreis schlingt*), but where, given the linear temporal development (*zeitliche Entwicklung*), it cannot be anticipated that the beginning is already a derivative of the end (*der Anfang schon als solcher ein Abgeleitetes sei*). With its complete condition (*vollständige Bedingung*) being implicit but not yet unfolded, there is no need to be depressed (*es braucht nicht depreziert zu werden*), Hegel adds, when one realizes that one must accept the beginning as only provisional and hypothetical (*nur provisorisch und hypothetisch*) (SL 750–51/TWA 6:570). How, he quips, could it be otherwise given how the passage toward absolute knowledge takes its time and the knower ought not to leap ahead with impatience. But what then at the end: what is the difference when the practice structures itself in the achieved name and state of freedom? Must the provisionality and hypothesis shift its attachment away from what has formerly to become known to what now, under the condition of knowing, must be actualized, daily, over and over again?

“Provisionality,” more than “qualification” is the current term in the contemporary discussion of rights. This is demonstrated in Lasse Thomassen's 2010 survey of contemporary political theory, where, as its bibliography indicates, many writers today choose to use the very term in their titles. Not needing to repeat Thomassen's survey, I will supplement it with some post-Hegelian takes on provisionality.

In his article “Are there natural rights?”, Mark Tunick stresses the break of Hegel from Kant regarding the relation of “provisional” to “formal” rights (Tunick 1994). The issue is whether *laws* come before, or follow from, in the sense of formalizing, the moral or practical *attitude* or *duty*. For Kant, the moral practice coming prior to the formality is “provisional” because “natural,” whereas the formality is reason's acceptance and justification. What change does the formalism then bring to the rights: are rights denaturalized or is the provisionality suspended? For Hegel, in Tunick's quotation, persons, being “suckled at the breast of universal ethical life,” means that the justification is already implicitly justified, hence not provisional from an essential point of view before the reasoning makes it explicit. The agreement is tacit from birth, latent as our *human* potential, awaiting its patent in explicit law. The difference between the two views is subtle.

James Messina focuses on Kant's distinction between right (*Recht*) as provisional (*provisorisch*) and as peremptory (*peremptorisch*) (Messina 2019). The

“provisional” attaches to the rights in the state of nature before the civil condition and to how justice is distributed and redistributed. The “preemptory” captures what is legislative and judiciary, and attaches to the executive powers that set down and authorize a civil society’s rights and laws. Whereas provisionality applies to what is constitutive, as ongoing in the practice, the preemptory applies to what is regulative. What is constitutive seems to attach to what is real, while what is regulative seems to attach to what is ideal. Whereas, interestingly, both rights *qualify* the practice, we might think that what is constitutive can change more than what is regulative, unless what is constitutive defines a practice, in which case, with the change, the practice would become a different one. The identity and individuation of forms of life are always related questions.

In his essay “Hegelian Conscience as Reflective Equilibrium and the Organic Justification of *Sittlichkeit*,” Dean Moyar describes the *science* of natural law and rights as a form of critique, when the *Sittlichkeit* is constantly tested, where any pure certainty afforded by a one-sided, abstract self-determination “evaporates” the more the judgment of what is good *in itself* is mediated by the determinations of right, duty, and existence (Moyar 2017). And then in a reversal of the direction, the evaporation, he adds, suits the “change-of-state” metaphors that allow the testing mind “provisionally” to suspend the principles while the conscience moves away from its particularization, partisanship, and interest for the sake of the universally good. As for Pinkard, the provisional suspension cannot be local given the distance the mind needs in reflecting on the determinations of a *Sittlichkeit* in any place here and now. But then the distance cannot turn to a skeptical refusal to endorse any determination because none reaches a final justification. Here, the equilibrium suggests a give and take for the sake of both the theory and living practice without either falling into an unqualified acceptance or prohibition.

Errol E. Harris addresses the movement between the abstract and concrete as a form of abstracting from the concrete (Harris 1990). Abstraction goes awry when a partial, concrete element is drawn out or promoted in isolation as self-sufficient so that the resulting absolute claim negates the concretion without also implying it. The “qualification” of the dialectic demands the movement of mediation that carries forward the element or state that is left behind. No abstract without concrete, and vice versa. Harris then adds:

every part is itself a provisional whole, although as partial and provisional it has a *nisus* (drive) to develop what is merely implicit in it (an *sich*), and to become a more adequate exemplification of the universal ordering principle (the Concept). So, in the Logic, Hegel defines a category as a provisional definition of the Absolute. Each is a concept, and a provisional version of *the* Concept, which, he declares, is in truth what the others are only in some degree.

(Harris 1990)

But if the provisional attaches to the movement and logic of the concepts as regards their parts or substance, so too does it attach to the history that brings modernity to a moment of extreme doubt. We have already addressed Pinkard's third possibility but not yet the idea of modernity's promise of a new order of freedom being so broken that repair seems to some not to be possible at all. If for Hegel, critique is still the justification of laws and rights from the infinitizing perspective, does the modernist moment bring critique to a justification of itself? This is a death of God sort of question, the question of truth and the infinitizing perspective, which instead of stopping critique in useless resignation only doubles its labor.

In "Between Finitude and Infinity," William Desmond explores the negative critique that is "always and ever dismantling [the] partial and provisional efforts" (Desmond 1995). To write of the "always and ever dismantling" sounds so destructive or deconstructive for a philosophy that wants to arrive at something positive. But again, we might think that dismantling is the true name of the philosophical game, the critique that, by taking nothing for granted, respects the partiality and provisionality of practice as the negation, non-identity, and even pluralism that prevents the ideal forming a wrong identity or unity for itself. This is one line of critique after which the critique submits to a check of its own terms, to see whether the operative terms of negation, difference, and pluralism have not themselves become corrupted.

Many associate critique with a skepticism along the lines of a Pascal-driven testing of the ground lines or foundations of an institution or a science, where the testing is a justification that rarely results in a dismantling of the practice. This raises the thorny issue of reform versus revolution, as Cyril O'Regan draws the thorns of the French Revolution into his reading of Hegel's *Phenomenology* (O'Regan 1995: 39). He describes the "apocalyptic cast" of crazy heads that reason could not at first master until reason realized its task of explanation to explain the unexplainable, the contingencies and moments of history that did not fit the current account or pattern. Reading elsewhere about "the provisional character of all philosophizing" (Di Giovanni 1985: 287), we learn that Hegel much preferred gradual social reform to the tabula rasa revolutionary sweep, and that because all constitutions or legislature of positive laws are granted a "provisional validity," *Geist* was understood to append itself to "every existing constitution" on a path toward a final justification.³

Exploring Hegel's ethics, Molly Farneth (Farneth 2017: 8) quotes from Robert Pippin's *Hegel on Self-Consciousness* (Pippin 2011). With respect to his reading of lordship and bondage, she notes his claim that self-consciousness is "always in a way provisional," that is an "opening up" of "a kind of gap between a subject's initial resolving and any satisfaction of its desire to confirm [what] it takes to be true or right or good." And then for Farneth: "There is, in other words, a kind of provisionality to our judgments about the world." Bringing Robert Brandom into the mix, we read that a pragmatist reading of judgment is an "always renewable contestation" (Farneth 2017: 8). Here, provisionality takes on an almost Schopenhauerean tone (apologies to Hegel!): not only is there a

gap between intention or desire and satisfaction, but every satisfaction, being a partial accommodation of the will, always feels temporary or incomplete. Pippin writes: “What I truly intended can always only be formulated” in “highly provisional” and “temporally quite sensitive ways” (Pippin 2008: 172). The provisionality attaches not so much to the desire as to its formulation as though nothing outer or external by way of action or performance ever exhausts the potential of the inner desire or intention. (The same is said of performances and interpretations of artworks.) In *Hegel’s Practical Philosophy*, where provisionality is a repeated motif throughout, Pippin argues that

...the principles of a regime, perhaps its constitutional principles, are only provisional expressions of commitments, its actual commitments are expressed in what is actually done (the beginning here of ‘ideology critique’); the otherwise mysterious but much-cited claim by Hegel that we can only understand human doings and makings when they are over, that philosophy comes on the scene too late, that the Owl of Minerva takes flight only at dusk; and perhaps above all, why Hegel finds both an ethics of intention and an ethics of consequences so one-sided and unsatisfactory, and how he proposes to defend a concept of freedom that involves neither the inevitable unfolding of who one happens to be nor the spontaneous initiation of who one wills to be.

(Pippin 2008: 177)

We have almost come full circle, back to Minerva’s owl. But there is a remaining task, to consider a post-Hegelian critical theory *in translation*. Moving from German to English, we are reminded again never to forget our Ps and Qs.

In his *The Struggle for Recognition*, Axel Honneth describes (in the translation) Hegel’s early “conceptual reorientation” of the struggle as “coming only to a provisional conclusion,” whereas later the terms and problems were different” (Honneth 1995b: 30). This, as above, is a claim about Hegel’s early work, as provisional, given what came later. In Honneth’s *The Critique of Power*, the thought assumes more punch. Arguments are now “provisional” on the path toward a critical social theory, so that, in the end, arguments acquire their critical force in praxis when they lose their provisional character (Honneth 1993: xxxi). This corroborates Pinkard’s Hegelian thought that, in praxis, arguments or, better perhaps, principles, cannot be treated as provisional so long as the form of life is functioning. Honneth gives the point another turn in his *The I in We. Studies in the Theory of Recognition*: everyday praxis is such that theory “knows too well that [many] decisions are only provisional, partial and distorted as long as citizens cannot raise their voices free of all anxiety and shame” (Honneth 2014). But then, when if ever the voices become free, do the decisions remain provisional? If a true democracy, autonomy, or freedom removes the distortion and the shame, does the truth condition therewith remove the provisionality qua partiality? Or must one retain the on-going justification to prevent a slide back into a shameful

partiality of exclusion or prejudice? In his essay from *The Fragmented World of the Social*, Honneth contrasts Marx's waiting for the revolutionary formative moment of capitalist production with Adorno's claim of a moment arriving as a "provisional" culminating point in fascism (Honneth 1995a: 100). The critical strategy is for Adorno to show a reason rationalized in a progressive development toward total reification, so that at this moment of culmination and catastrophe, instead of appealing, as Honneth writes, "to systematic formative and emancipatory moments within capitalist production," Adorno rather returns to the emancipatory potential promised at the start. At the start was the potential of Enlightenment freedom, which was then contradicted by a history whose stages resulted in the reification of nature by mind (*Eingedenken der Natur*). This way, Adorno could construe the "provisional culminating point" as a (Marxian) missed opportunity of something promised at the start, with the hope in the critique that it would not be missed again. In his well-titled essay "Reconstructive Social Criticism with a Genealogical Proviso," Honneth notes Michael Walzer's proposal for a "provisional distinction" between two models of social criticism, where what is *provisorisch* suggests the need and call for a third model (Honneth 2009: 47). And in *Disrespect*, finally, Honneth describes the "provisional categorial scaffolding" (Honneth 2007: 90–1) by which one comes to understand how feelings of social injustice are socially controlled. The scaffolding turns on the institutional expropriation of speech (*Entsprachlichung*) from the individual, while the provisionality marks the incompleteness of a construction that cannot live by the scaffolding of speech alone.

This last point brings us to the quotation of Heidegger in Adorno's lectures on *Ontology and Dialectics*, where provisionality is a predication of a thinking that has *declined* as regards its essence (Adorno 2018: 30). Concluding his *Letter on Humanism* (1946/1947) Heidegger wrote: "Das Denken ist auf dem Abstieg in die Armut seines vorläufigen Wesens" (Heidegger 1975: 56). With the "vorläufigen Wesens" translated as "provisional essence," Adorno questioned the poverty that had turned to essentialism in a false rescue of what had been lost. In a moment of world need (*Weltnot*), Heidegger explained, we need less philosophy and more mindfulness in thinking; less literature and more care for the letters (*des Buchstabens*). Minding his Ps and Qs, Heidegger called for the return of the "love of wisdom" (*Liebe zur Weisheit*) that Hegel saw as the primordial drive toward absolute knowing, a drive that had been displaced by a thinking that collected (*sammelt*) language into the simple saying (*einfache Sagen*) that left no trace:

Die Sprache ist so die Sprache des Seins, wie die Wolken die Wolken des Himmels sind. ... Language is the language of being as the clouds are the clouds of heaven. With its sayings, thinking lays inconspicuous furrows in language. They are even more inconspicuous than the furrows that the farmer slowly prints/steps/strides through the field.

(Heidegger 1975: 56)

Adorno condemned the positivity that led to the compartmentalization of thinking, where essence was given over to philosophy so that essence was rescued without recourse to any other mode of thinking. Appropriating essence was how, in a positivistic ideological step, philosophers claimed *being* or *essence* already in place. Here, for Adorno, the jargon of ontology only more rendered the critical task urgent: to work through the grounds that brought the labor of thinking and doing to so catastrophic an end in false and alienating promotions of totality—for which Hegel or at least his disciples were held partly responsible.) The positivity debate brought Adorno into conversation with Popper who argued that all “justifying [of] our knowledge is itself merely provisional, for it consists in criticism or, more precisely, in an appeal to the fact that so far our attempted solutions appear to withstand even our most severe attempts at criticism” (Adorno and Popper 1976: 90). Here again, the provisionality had to lose the reductive sense of its being “merely provisional,” to give point and purpose to the on-going criticism.

Adorno’s critique that pitted ontology against the negative dialectic focused on the false forgetfulness and poverty in contemporary thinking. It inspired his description (Adorno 2018: 75) of the highest classificatory concepts in given domains being dismantled in recognition of their being “provisional expressions.” Returning to Heidegger’s letter (Adorno 2018: 80), he proposed a provisionality of postponement, whereby any rescue of the concept is put into the waiting room to avoid the delivery of a concept being appropriated in an identity with what is necessarily partial in an actual living practice. But what then when, in postponement, philosophy isolated itself from the living practice altogether? Adorno called up Minerva’s owl to take flight, not into a useless airspace, but to join Benjamin’s “angel of history” in retrieving all that had fallen by the wayside “from the chariot of world history.”

In his “Notes on Kafka,” Adorno reminded us of the problem of contingency: the contingency that had been the cause of so much agony to philosophical systems (Adorno 1967, 256–7). Yet, he added, the problem was of philosophy’s own making. Philosophy made contingency its problem, just as, so I would say, we have made provisionality or relativism our problem. To make a problem is to motivate the search for a resolution. Or, better, it is to submit the problem to a productive and ongoing critique. Adorno drew from a poetic allegory the philosophical point: Kafka made his scenery always obsolete, always aged, to give off a sense of the provisionality or historicity of appearance. Humans, Adorno added, assume a maturity so as to regard as obsolete the stigmata and wounds that so hurt them; yet by bypassing the wounds they lose the hope that children carry with them: that the world that might come to a different and better appearance.

Hegel addressed the philosopher who, as a child of his time, comes to his knowing in the maturity of age. How does one hold onto the tension between the two, the tension between philosophy and history, age and youth? In his *Does History Make Sense?* Pinkard asks what sort of drive of teleology, mood, or self-knowing brings participants to question the adult authority

that has given the ground qua foundation and reason to a form of life. Pinkard sees the ground cracking or breaking, a perfect proof of its provisionality. All the principles provisioned and qualified, which Kant and Hegel laid down toward world-citizenship, prove that no form of life can do away with contingency. Contingency is not simply a problem in need of a resolution. Nor, I have suggested, are provisionality and qualification, so long as the constant critique of both is not forgotten. Many blame the philosophers of critique for closing the door to truth, whereas these philosophers are more usually describing a moment when closing the door becomes the very problem. Provisionality, they like to say, does not close the door on an “unconditional” autonomy of citizens of a state but rather leaves it ajar for a future that is not the same as the existent state of affairs.

Provisionality has everything to do with Hegel as a philosopher of right so long as, when reading Hegel, we do not lose sight in the translation of the dialectical movement of his thought and terms. All social theories are provisional given the necessary mediation and testing of their grounds. Philosophy as critique takes the provisionality to be a missed opportunity but, with this qualification, there is always another possibility. The hardest question that remains on the table is what philosophy does when it assumes a standpoint beyond critique. It is in “the beyond” that the mind tends most to repeat of its errors.

Notes

1 Goethe 1982: ll. 2037–38.

2 In correspondence, Pinkard reminded me of the independent standpoint wherein:

For the sake of freedom, the Idea also has . . . the hardest opposition within itself; its being at rest consists in the security and certainty with which it eternally creates and eternally overcomes that being at rest and therein brings itself together with itself.

(SL 759/TWA 6:468)

3 Cf. PW 53, 255, 265.

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2 “This Is the Very Essence of the Reformation: Man in His Very Nature Is Destined to be Free”

Hegel, Luther, and Freedom

Robert Stern

One of the many services that Terry Pinkard has performed for Hegel scholarship is in helping us to better understand the historical context of Hegel's thought – something he has done not only through his masterful Hegel biography but also through his accounts of the development of German idealism more generally. My aim in this paper is to continue with this process of contextualisation by focusing on a key Hegelian concept – that of freedom – and to put it in the context of Hegel's relation to Martin Luther, a relation which I think deserves more attention than it has so far received.¹ Pinkard himself rightly notes in the biography, in his account of Hegel's rectoral address on the three hundredth anniversary of the Augsburg Confession in 1830, that Hegel took the opportunity towards the end of his life to repeat a claim that he often made, namely that the Protestant reformation should be associated with freedom, in contrast to Catholicism.² In this paper, I want to push this link a little deeper, to include not just the kind of religious and social freedom that Hegel had in mind in his address, but also to show how elsewhere Hegel takes up from Luther three other key ideas: freedom as grace and reconciliation, freedom as liberation from the law, and freedom as necessity. Before moving on to these three ideas, I will begin by saying something about the connection between Luther and freedom that Hegel makes in the Augsburg address and in his lectures, namely religious and social freedom.

2.1 Religious and Social Freedom

As with the Augsburg address, in the various lecture series – on history, on religion, and on the history of philosophy – in which Luther and the Reformation are discussed, Hegel largely focuses on freedom,³ and the freedom he mainly discusses is of a religious and social kind. On this issue, we may therefore follow Pinkard in taking the Augsburg address as typical of Hegel's treatment of this aspect of freedom, and thus as representative of these other discussions.

As Pinkard notes, the Augsburg Confession had been submitted to the Diet of Augsburg on June 25 1530. The aim of the Diet, which was attended by the Emperor Charles V, was to achieve some reconciliation between the Catholic and Lutheran positions. Luther had been invited, but due to fears

for his safety, he remained in Coburg where he was sequestered at the time, while his position was represented by his gifted younger protégé Philip Melanchthon (1497–1560), who had first joined Luther in Wittenberg in 1518. Luther forwarded his strongly worded suggestions as to how the Evangelical view should be represented in his “exhortation,” but Melanchthon opted instead to present a more moderate position to the Diet, in the 28 articles which were later named after the venue for the meeting, which failed to reach any agreement between the different parties. Nonetheless, the Augsburg Confession became a founding document for the Lutheran Church, in setting out how its doctrines differed from Catholicism and from other Protestant sects.

In marking the anniversary of this document at the festivities in Berlin, Hegel begins his address by noting that one form of freedom he owes to the Reformation is the very ability that he is exercising on this occasion, namely to pronounce on religious matters even though he is a lay person. Thus, he suggests, rather than a world divided into two classes of the clergy and laity, the first of which is the free master and the second of which is enslaved, it is now recognised that all can approach God – although in a way that doubtless would have troubled Luther, Hegel suggests that it is reason that makes this possible. Hegel argues that for all to come to God in this way appeared unachievable when religious control was exercised via the various “obstacles” put in place by the Church that stood between human beings and God, such as indulgences, relics, and the power of the priest over communion; but thanks to the Reformation, these obstacles have now been swept aside, and with it the distinction between the clergy and the rest – even though Charles V may not have seen this himself, and still saw fit to claim he had divine right on his side because he spoke for the Church, thus failing to see that if anyone spoke for God, it was Luther who as God’s trumpet “now proclaimed the wondrous sound of Christian freedom” (PW 189/BS 433).

However, as Hegel makes clear, in his view while Luther succeeded in freeing those who followed him from the authority of the Catholic Church, he did not really attempt to free them from the political authority of the princes, so that while they become freedmen [*liberi*], they were still not genuinely free [*liberti*]. Hegel thus makes the point that he makes also elsewhere in similar discussions,⁴ namely that while Luther deserves credit for a first reformation, and that “the things which our Luther set in motion were truly new,” nonetheless a second reformation is also required, as “if religion is reformed, the political, legal, and ethical system [*ratio civitas et legume morumque*] should also be reformed.” This further task is clearly one that Hegel was implicitly claiming for himself, thereby presenting himself as a “second Luther” in this respect, in taking us from religious freedom to social freedom, which Luther himself (who notoriously ultimately sided with the princes in the Peasants’ Revolt) did not manage to do.

Hegel then considers two challenges to his claim that Luther and the Reformation are vital steps towards freedom. The first is that the Lutheran cause did not represent freedom but a kind of seditious anarchism – to which Hegel’s reply is that this is to ignore the religious basis for Luther’s reforms,

which gave them legitimacy. The second challenge is that Lutheranism betrays the cause of religious freedom because (as the Augsburg Confession exemplifies) it seeks to "fetter" faith by laying down agreed doctrine and by stamping out dissent – to which Hegel's reply is that while he doesn't want to get embroiled in wrangling on these issues which would be "too melancholy a subject, inappropriate to today's joyful occasion," it may suffice to point out the flowering of intellectual inquiry and discussion that followed the Reformation, which hardly suggests it served as a "fetter" on the freedom of thought or debate.⁵

Finally, he emphasises how as a religious doctrine, the Reformation has a superior way of connecting religion to political and social life so that rather than setting up a realm of otherworldly religious virtues at odds with the so-called "splendid vices" of the Greek and Roman worlds, it is instead able to re-integrate the latter into religious life, as well as replacing the vows of chastity, poverty, and obedience (which he argues have always been abused by the clergy anyway) with marriage and family life, industriousness, and the freedom to understand religious doctrines for oneself and make them one's own. It is this shift, Hegel argues, that has made possible "our most precious heritage – namely the free concord of the state and religion" (PW 195/BS 440), which otherwise would have led to the damaging separation of church and state (as legitimate laws need a religious sanction), or the imposition of the church on the state, and thus the taking away of civic freedom and the equality between the laity and the church on which this depends.

We have seen, then, how Hegel credits Luther and the Reformation more generally with making possible a religious life that contains greater freedom, as the Church relinquishes its power over individuals in matters of faith, and as believers are given access to religious doctrines, and thus a more direct relation to God. He also argues that the same kind of reformation is needed at a political and social level, which Luther did not achieve, but which Hegel thinks is clearly ready to be ushered in, so on these issues he can present himself as a "second Luther." At the same time, he also makes clear that all this will require a greater commitment to rationalism and "the concept" than Luther himself allowed.⁶ Nonetheless, we have seen how at a religious and social level it seemed plausible to Hegel to make the claim in our title: "This is the very essence of the Reformation: Man is in his very nature is destined to be free" (PH 417/TWA 12:497).

While this connection between Hegel, Luther, and freedom is relatively unproblematic and generally known, I now want to take things a little further, arguing for three additional links which are more subtle but nonetheless significant, beginning with what I am calling "freedom as grace and reconciliation."

2.2 Freedom as Grace and Reconciliation

The significance of grace is of course central to Luther's thinking, and to the Reformation generally, where at the heart of the issue is the question of

activity vs passivity: how much can the believer do for themselves to actively earn divine assistance and justification, and how much is this purely passive, whereby grace is given to the believer regardless of their “works.” As is well known, Luther argues vehemently for the latter view, rejecting all other options which include any role for human activity as Pelagian or semi-Pelagian, including so-called “co-operative grace” which sees us as capable of making the effort “to do what in us lies [*facere quod in se est*],” that is then supplemented by God. Luther had a number of fundamental concerns about making grace reliant on our efforts in this way, in particular: how could we ever know we had done enough, thus making grace uncertain; in taking ourselves as being capable of anything, this fuels pride in our own capacities which then deepens our sinfulness; and rather than making grace a matter of God’s gratuitous and unearned forgiveness, it treats grace as a matter of entitlement and thereby ties God’s hands. Thus on this account, rather than securing for us some relation to God, any emphasis on our efforts puts a barrier between him and the believer, which Luther’s radically passive conception of grace was designed to sweep away – therefore only by recognising its passivity and lack of agency, could the individual’s right relation to God be realised.⁷

Given the centrality of this idea to Luther’s thinking, when lecturing on him, Hegel himself invariably notes Luther’s opposition to “works righteousness.”⁸ But more interestingly, with an implied reference to John 8:32 (“Then you will know the truth, and the truth will set you free”), in these lectures Hegel also often emphasises our passivity in relation to the truth that is preached by Jesus and the Church, which requires us to surrender our merely particular perspective; but this is not in a way that amounts to blind obedience (as in Hegel’s criticisms of Catholic authority discussed previously), because in so doing we come to a truth in which we can find ourselves, and with which we can identify. For both Luther and Hegel, therefore, a certain overcoming of the self is required, before the self can find itself again in the relation to the truth in which genuine freedom is to be attained:

Subjectivity therefore makes the objective content of Christianity, i.e. the doctrine of the Church, its own. In the Lutheran Church the subjectivity and the conviction of the individual is regarded as equally necessary as the objectivity of truth. Truth with Lutherans is not a finished and completed thing [*nicht ein gemachter Gegenstand*]; but the subject should become a true subject [*sondern das Subjekt selbst soll ein wahrhaftes werden*], surrendering his particular being in exchange for the substantial truth, and making that truth his own. Subjective spirit comes to itself through this self-negation because it is absolutely at home with itself [*bei sich*].⁹ Thus subjective spirit gains freedom in the truth, negates its particularity and comes to itself in its truth. In this way Christian freedom is actualized.

Even though for truth, like grace, to come *to* the self, the stance of the self must be passive, this is not mere coercion or obedience, as the self can find itself again in what it undergoes or finds to be thereby revealed, in this way achieving the freedom of being "at home with itself" in what would otherwise be entirely "other." In his lectures on Luther, Hegel thus associates the latter's conception of grace with a way in which freedom can be achieved through reconciliation, as a finding of oneself in the other, namely of what lies beyond one's active control, but is nonetheless not alien.

Moreover, as Stephen Houlgate has emphasised,¹⁰ Hegel takes this model up into his philosophy more generally, and in particular in his own account of the philosophical method in the *Logic*, where Hegel again underlines the passive stance that is required from the philosophical inquirer, as in the following passages which Houlgate cites:

[Pure knowing] must stand back from its content, allowing it to have free play, and not determining it further.

(SL 50/TWA 5:72)

This vanity [of clever argumentation [*das Rasonieren*]] is expected to make the effort to give up this freedom, and, instead of being the arbitrary [*willkürlich*] principle moving the content, it is supposed to let this freedom descend into the content and move itself by its own nature, which is to say, to let it move itself by means of the self as its own self and then to observe this movement.

(PhG 36–7/TWA 3:56)

Philosophical thinking proceeds analytically insofar as it merely takes up its object [*Gegenstand*], the Idea, giving the latter full play [*dieselbe gewähren läßt*], and as it were merely looking upon its movement and development. To this extent, philosophizing is completely passive.

(EL §238A)

As in the passages on Luther we have been discussing from the lectures, Hegel also makes clear that in giving up one's control and hence one's self-hood in this sense, nonetheless there is a kind of reconciliation as one finds oneself "at home with oneself" in this process, in which freedom is to be attained; for while the process of thought is not controlled by the self, it is not alien to it either:

In logic, thoughts are considered in such a way that they have no other content than that which belongs to and is generated by thought itself. In this way, the thoughts are *pure* thoughts. Thus spirit relates purely to itself and is therefore free, for freedom is precisely this: to be at home with oneself in one's other [*in seinem Anderen bei sich selbst zu sein*], to be dependent on oneself, to be the determining factor for oneself. In all my

urges [*Trieben*] I start from something other than myself that is for me something external. Here, then, we speak of dependence. Freedom exists only where there is no other for me that I am not myself. The natural human being who is determined only by his urges is not at home with himself. However self-willed [*eigensinning*] he may be, the *content* of his willing and believing is still not his own and his freedom is merely a *formal* one. When I think, I give up my subjective particularity, immerse myself in the basic matter [*in die Sache*] and let thought follow its own course; and I think badly whenever I add something of my own.

(EL §24A2)¹¹

Thus, just as Luther would argue that the passivity of grace does not undermine but enhances our freedom, whereby through being passive one can find oneself more connected to the God who is no longer alien to the believer, as this God is now a forgiving source of love rather than a forbidding source of law, so Hegel is arguing here that our passivity in relation to thought does not undermine but enhances our freedom, as it is through being passive that the self follows a process in which it also finds itself at home. And, just as Luther chose to change his name to reflect this discovery of a kind of freedom in passivity,¹² which brought about a reconciliation between himself and God, who prior to this re-thinking of grace had felt “alien” to Luther, so Hegel’s conception of freedom in his account of the methodology of the *Logic* reflects this key Lutheran idea, that through passivity it is possible to achieve the freedom of reconciliation, of finding oneself in the other.

Moreover, Hegel’s discussion of these issues also reflects a further complexity that can be traced back to Luther’s conception of grace: namely, while it is clear that on Luther’s view one can do nothing to *earn* grace and thus compel God to offer it to you, nonetheless it seems he also held that this grace requires *faith* from the believer, namely a basic trust or confidence in God’s promise so that there is some role for the subject in *receiving* grace, or conversely turning it away. At the same time, faith itself is not something one can simply instill in oneself, through any action of the will – indeed, the more one tries to do so, the less faith is likely to be achieved. On this account, therefore, faith in Luther might be thought of as a *medio-passive* phenomenon, as such phenomena have been called by Béatrice Han-Pile, which require not mere activity, but not sheer passivity either – but a kind of “giving up” or “surrendering” of oneself that has elements of both.¹³

Now, as Houlgate has also discussed, a similar complexity can equally be found in Hegel’s account of the methodology of the *Logic*, for Hegel too does not treat that method as merely passive: for while philosophical thinking involves being taken up within the activity of the concept itself, for this to happen “requires, however, the strenuous effort of holding off on one’s own notions [*Einfallen*] and particular opinions which are always trying to assert themselves” (EL §238A). Thus, the parallel between Luther and Hegel is as follows: Luther holds that we cannot do anything to earn the grace in which

we have faith or trust, but also need to prevent ourselves blocking that grace through undermining our faith, and allow ourselves to be taken over by faith instead; and likewise, Hegel holds that we need to treat the categories of thought as developing themselves, but also need to prevent ourselves blocking that process, and thereby allow this development to unfold. In both thinkers, therefore, for the freedom of reconciliation to be achieved requires a complex mix of active and passive elements which can be associated with the Lutheran conception of grace.

Finally, it is also arguable that a giving up of agency is for both thinkers a necessary part of avoiding a kind of entrapment in the self that Luther associates with sin (*incurvatus in se*), as the self asserts itself in a prideful and controlling manner and so focuses in on itself, rather than letting this go in an openness that liberates the self from itself. For Luther, this means no longer "wanting to be God" and trying to put ourselves in his place (WA 1:225/LW 31:10), while for Hegel it means not allowing our preconceptions to be imposed on "*what is there before us*" (SL 47/TWA 5:68).

2.3 Freedom as Liberation from the Law

I turn now to the third aspect of freedom which I think can be traced back to Luther, namely freedom as liberation from the law. In Luther, this issue strongly relates to the previous issue of grace, as one problem with "works righteousness" from Luther's perspective was that it encouraged a kind of legalism: namely, that grace could be earned by complying with what the law requires of us. For Luther, however, this does not go far enough in its re-thinking of the Christian's relation to law, which he takes to no longer act on them as a constraint; rather, as a result the Christian is able to act from love and not from a sense of duty or obligation, and so in this respect they no longer stand under the law.

One text which reflects Luther's position here is *The Freedom of the Christian*, with its famously dialectical claim: "A Christian is a perfectly free lord of all, subject to none," in so far as the Christian is freed from following the law in an instrumental manner and out of fear for its penalties; on the other hand "A Christian is a perfectly dutiful servant of all, subject to all" (WA 7:21/LW 31:344), as the Christian feels a gratitude to God and to Christ that also allows them to see what they owe to their neighbour, who they serve in love.¹⁴ In his Preface to the Epistle of St Paul to the Romans, Luther thus claims that the Christian lives not under the law but under grace in a way that makes them free, and explains the difference by appealing to Paul:

[Paul] explains that to be without the law [but to be under grace] is not the same thing as to have no laws and to be able to do as one pleases. Rather, we are under the law when, without grace, we occupy ourselves with the work of the law. Then sin certainly rules [us] through the law, for no one loves the law by nature; and that is a great sin. Grace, however,

makes the law dear [*lieblich*] to us; then sin is no longer present, and the law is no longer against us, but is one with us.

This is the true freedom from sin and from the law. He writes about this down to the end of the chapter [i.e. chapter 6], saying that it is a freedom to do good with pleasure [*Lust*] and to live well without the compulsion of the law [*wohl leben ohne Zwang des Gesetzes*]. Therefore this freedom is a spiritual freedom, which does not overthrow [*aufhebt*] the law but supplies [*darreicht*] what the law demands, namely pleasure [in the law] and love [for it], whereby the law is quieted and no longer drives people or makes demands of them... Our freedom [as Christians] is, therefore, no carefree fleshly freedom which is not obligated to do anything [*die nichts tun soll*], but a freedom which does much and in fact everything, and is free of the demands and obligations of the law.

(DB 7:20–21/LW 35:375–6)

As Luther makes clear here, he is not claiming that the Christian is somehow exempt from the law, and so can simply “do as one pleases;” but rather, the Christian’s relation to the law is fundamentally changed, for as a result of their relation to God through grace, they are freed from its obligatory or constraining force, as they can now relate to their neighbour in love, which has no place for law in this sense.¹⁵

Unlike the other two aspects of freedom we have discussed in the previous sections, where Hegel makes a clear reference to Luther on those issues, in this case, there is no explicit reference by Hegel to Luther’s conception of freedom with respect to the law (or none I have been able to identify). However, I would suggest that a case can still be made that there is a distinctly Lutheran cast to Hegel’s thinking on these issues, most obviously in his early writings.¹⁶ For, particularly in *The Spirit of Christianity* which focuses on the Sermon on the Mount, Hegel draws a clear distinction between Kantianism as an ethics of law, and Christianity as an ethics of love, which seems modeled on the Lutheran contrast discussed above. While in the earlier *Positivity of Christian Religion*, Hegel was happy to embrace the Kantian language of self-legislation,¹⁷ in *The Spirit of Christianity* Hegel makes clear his dissatisfaction with the Kantian model from this perspective, as falling short of what Jesus has in mind. For, he argues, Jesus did not merely want to move from a positive conception of law to one grounded in Kantian reason, whereby the law is “a product of a human power (i.e., of reason as the capacity for universality)” and so “loses its objectivity, its positivity, its heteronomy, and the thing commanded is revealed as grounded in an autonomy of the human will.” Rather, Hegel argues, Jesus wanted to go further, as “[b]y this line of argument, however, positivity is only partially removed,” as while the agent is no longer a slave to a lord outside themselves, on this Kantian model they remain a subject to a lord within, so that “at the same time each is their own slave,” as universal reason is seen to command and constrain what is particular – “impulses, inclinations, pathological love, sensuous experience, or whatever else it is called” (ETW 211/TWA 1:323). It is at this point that

Hegel contrasts the “spirit of Jesus” with that of Moses and the legalism of Judaism which he had been discussing previously, which is also a contrast that Luther draws¹⁸ – and uses it to critique the Kantian picture also:

This spirit of Jesus, a spirit raised above morality, is visible, directly attacking laws, in the Sermon on the Mount, which is an attempt, elaborated in numerous examples, to strip the laws of legality, of their legal form. The Sermon does not teach reverence for the laws; on the contrary, it exhibits that which fulfils the law but annuls it as a law [*aber als Gesteze aufhebt*] and so is something higher than obedience to law and makes law superfluous.

(ETW 212/TWA 1:324)

As an alternative to this Kantian morality of law, Hegel then goes on to propose instead the model of love, as involving “a unification of inclination with the law whereby the latter loses its form as law” (ETW 214/TWA 1:326), as in love, obligation and constraint drop away, so that “in love all thought of duties vanishes” (ETW 213/TWA 1:325). Hegel thus summarises his position as follows:

To complete subjection under the law of an alien Lord, Jesus opposed not a partial subjection under a law of one’s own, the self-coercion of Kantian virtue, but virtues without lordship or submission, i.e. virtues as modifications of love.

(ETW 244/TWA 1:359)

Hegel thus takes the Lutheran idea that love involves a kind of liberation from the law, and incorporates it into his critique of Kantian morality, a critique that was to go on to have significant implications for his view of ethics moral generally.

In emphasising this parallel between Luther and Hegel, I am not claiming Luther to be the only possible source for Hegel’s thinking on this issue, and nor am I denying that there are differences between them: for example, Luther’s account obviously gives a role for grace that is not mentioned at all in Hegel’s more secular treatment, while Hegel brings in the virtues in a way that Luther would doubtless have resisted given his suspicion of all such Aristotelian notions. Nonetheless, as offering a model for the way in which law and love are to be contrasted, and how the latter can involve a kind of freedom from the law that is said to be importantly distinctive of a Christian outlook, Luther would appear to be of significance to this key element of Hegelian thinking, and the resulting turn away from Kant.

2.4 Freedom as Necessity

Finally, let me move on to the fourth aspect in Hegel’s view of freedom which I suggest can be associated with Luther – though again, this is not a connection

Hegel himself draws explicitly. It concerns Luther's much-debated treatment of freedom and the will in *De servo arbitrio*, which is a text that (as far as I know) Hegel never mentions by name, and he also hardly ever mentions Erasmus, who is the target of Luther's argument in that text. Nonetheless, I want to claim that if we dig a little beneath the surface, and in particular look at Hegel's treatment of *Willkür*, we can find Hegel implicitly siding with Luther in his debate with Erasmus on a key issue, which may suggest some influence.

Erasmus entered into his debate with Luther by responding to some of the latter's earlier pronouncements concerning free will,¹⁹ publishing his *A Diatribe or Discussion on Free Will (De libero arbitrio diatribe sive collatio)* in 1524 – where “diatribe” here is used not in the modern sense, but in the earlier sense of looking for a consensus on probable opinion through discussion. Luther, however, replied a year later to Erasmus's intentionally measured and urbane effort with what amounts to a diatribe in the modern form, entitled *De servo arbitrio*, which may be translated “On the bondage [or slavery] of the will [or free choice].” Luther's invective shocked and offended Erasmus, who responded with his two-volume *Protector of the Diatribe (Hyperaspistes diatribae)*²⁰ in 1526 and 1527, in which Erasmus's language is almost as intemperate as Luther's own. As Luther emphasised, at the heart of this dispute lay issues that were central to his thinking, concerning grace, human agency, and divine knowledge and power, played out against the background of Augustine's earlier disputes with Pelagianism. More particularly, Luther's text is directed against Erasmus's defence of free choice: while Erasmus sought to avoid Pelagianism, he also sought to defend a limited place for free will, and to argue on the basis of various biblical texts (many involving divine commands) that this can be supported by scripture (for why would God command us to do things unless we had the ability to do so, and how can he justly condemn us if we cannot determine our actions for ourselves?). There are many different strands to Luther's reply, not all of which need to concern us here (such as his challenge to the way Erasmus assumes that “ought implies can,” and his insistence that Erasmus remains guilty of a kind of semi-Pelagianism). Of more relevance to us is what Luther says about freedom itself – or more particularly “free choice” (*arbitrio*).

Luther starts the main part of his response to Erasmus with the latter's definition of free choice:

By free choice in this place we mean a power of the human will by which a man can apply himself to the things which lead to eternal salvation, or turn away from them.

(WA 18:661–2/LW 33:102–3, citing Erasmus 1524 [1969: 47])

Luther then complains about the indeterminacy of this definition:

[T]he following are like blindfold gladiators: ‘to apply’, ‘to the things which lead’, and ‘to turn away’. How are we going to divine what this applying and turning away means?

(WA 18:662/LW 33:104)

And Luther presents his view of what Erasmus could mean:

I take it, then, that what is meant by 'a power of the human will' is a capacity or faculty or ability or aptitude for willing, unwilling, selecting, neglecting, approving, rejecting, and whatever other actions of the will there are. Now, what it means for that same power to 'apply itself' and to 'turn away' I do not see unless it is precisely this willing and unwilling, selecting, neglecting, approving, rejecting, or in other words, precisely the action of the will. So that [on Erasmus's account] we must imagine this power to be something between the will itself and its action, as the means by which the will itself produces the action of willing and unwilling, and by which the action of willing and unwilling is itself produced. Anything else it is impossible either to imagine or to conceive here. If I am mistaken, let the author be blamed who has given the definition, not I who am trying to understand it.

(WA 18:662–3/LW 33:104)

The crucial issue for Luther is that on Erasmus's account, the will does not simply act as a will (as it were), as when I will to lift my arm, or to eat an apple; the will is also said to involve an element of *choice*, where the will also controls what it is that it then wills to do, by willing to direct itself one way or another – so that on this account, the will also decides whether to lift my arm or not, or eat an apple or not, and it is in this choice or decision that the freedom of the will is said to reside.

Having set out what he takes Erasmus's position to be, Luther then offers various arguments against it, where the one of most interest to us may be outlined as follows:

- 1 Left to itself without God's grace, the will is unable to perform the good, only the bad.
- 2 A will that can only perform the bad is not really free to choose, as it really only has one option (namely the bad).
- 3 Therefore, there is no free will qua free choice.

Luther's argument for the first premise is based on his anti-Pelagianism, which he can assume Erasmus's shares – though he thinks Erasmus does not clearly see its implications. Thus he often quotes Erasmus's own statement that "in those who lack grace...it is probable that in them...the power of the will was not completely extinguished, but that it was unable to perform the good" (Erasmus 1969: 49). Luther's argument for the second premise is simple:

If anyone told you that a thing was free which could operate by its own power only in one direction (the bad one), while in the other (the good one) it could of course operate – though not by its own power, but only by the help of another – would you be able to keep a straight face, my friend?

(WA 18:665/LW 33:109)

He therefore concludes that there is no free will understood as a capacity to choose between the good and the bad. Either the will is doing the good, in which case it is doing so through God's grace, and so not exercising its own power; or it is without God's grace, in which case it is doing the bad and has no other option, in which case it is not free to choose. So, it is either acting under its own power, but then has no free choice (as only has one option, namely the bad); or it is not acting under its own power, but then has no free choice either (as it is acting through God's grace).

But, Luther recognises, Erasmus might reply as follows: Isn't there still a point at which the will might *choose* whether to go along with God's grace and so opt for the good, as opposed to the bad? So isn't there still a point at which it can choose between good and bad, even if it will need God's help to get to actually attain the good? If this is possible, then those who lack grace cannot "perform the good" in the sense of realising the good and fully achieving it, but they can still *choose* between good and bad, and so have free choice in this sense – which is why the power of the will might be said to be not "completely extinguished."

Luther then gives an interesting response to this reply, which is as follows: Erasmus's position here depends on the idea that the will can be a "mean" or "middle-term" between willing the good and willing the bad, which is willing in the "absolute sense." But Luther has three arguments against this view: First, if (as Erasmus admits), as a result of sinning the will has lost its liberty, how can it remain in this neutral position? Second, Luther also denies the will *can* be "neutral" in this sense, as to will is to be committed to something one way or another: unless one is so committed, no willing is going on, so the will cannot rest in some middle position:

Nor, again, can desire and endeavor be a merely abstract willing, since desire must strive and endeavor in some direction – toward the good, for instance – and cannot either be a movement towards nothingness or a mere inactivity.

(WA 18:669/LW 33:114–5)

And finally, this supposedly neutral position between good and bad is not really normatively neutral, as if one is not willing the good, one is willing the bad:

It is, moreover, a mere dialectical fiction that there is in man a neutral [*medium*] and unqualified [*purum*] willing, nor can those who assert it prove it... The truth of the matter is rather as Christ says: 'He who is not with me is against me' [Luke 11:23]. He does not say: 'He who is not with me is not against me either, but neutral [*in medio*]'. For if God is in us, Satan is absent, and only a good will is present; if God is absent, Satan

is present, and only an evil will is in us. Neither God nor Satan permits sheer unqualified willing [*merum et purum velle*] in us....

(WA 18:670/LW 33: 115)

Luther thus endorses Augustine's view, "that free choice avails for nothing but sinning, which is why... [he] calls it an enslaved rather than a free choice." As Augustine himself puts it in *On the Spirit and the Letter*, 3.5: "A man's free will, indeed, avails for nothing except to sin, if he knows not the way of truth." Luther seems to be reading Augustine here as follows: either an agent knows the way of truth, but then there is no room for choice, for to truly know that way is to will it; or the agent does not know the way of truth, so they also have no room for choice, as the only option thereby left to them is to sin. Thus, all that is left to the will is to bring about action; it has no additional capacity to choose which way to act, for if it appears to it that it can choose between good and bad, it has been cut off from the good and gone down the path of the bad, so that its direction has already been determined, rather than having the capacity to choose from a neutral position, which Luther thinks is an illusion.²¹

Having outlined Luther's view, we can now relate Luther's argument to Hegel's position, beginning with a significant passage from Hegel's *Lectures on the Philosophy of Religion*:

In reference particularly to the statement that the will [*Wille*] is free choice [*Willkür*], which can will [*wollen*] good or evil, it may be remarked that as a matter of fact, free choice is not will [*so ist in der Tat diese Willkür nicht Wille*]; it is will only in so far as it comes to a decision, for in so far as it still might will one thing or the other, it is not will [*denn soweit er noch dies oder jenes will, ist er nicht Wille*].

(LPR 3:50/TWA 17:255–6)

Hegel seems to agree with Luther here, that the will and free choice are different things, as the role of the will [*Wille*] is to bring about action, and consequently, it only comes into play once things are already settled, and so it should not be identified with the capacity for choice or decision making. To say that the will is free because it incorporates some capacity for free choice is thus to misunderstand the nature of the will and what it does – which is to bring about action, rather than to choose.

But still, this in itself does not show we do not possess free choice: even if it is not to be *identified* with the will, could we not still have a capacity that can *direct* the will in different directions however it sees fit, based on a choice that it is free to make? As we have seen, this is how Luther understood Erasmus's position, to which he responded: if the agent thinks it can direct its will towards either the good or the bad at its discretion, it has already taken the path of the bad, so it does not really have two options

present to it, but only one – so there is no place here for free choice. Does Hegel think the same?

To see that he does, consider the following argument which I will suggest Hegel would endorse, based on his conception of reason:

- 1 The rational will is guided by what is rational to do.
- 2 What is rational to do is determined by what the agent has the most reason to do.
- 3 What the agent has most reason to do is settled by the intellect, not the will.
- 4 Therefore, what is rational to do leaves the will with no room for free choice about what to do.
- 5 Therefore, the agent who exercises free choice is failing to be a properly rational agent, and so not acting freely.

I take the first premise to be part of what Hegel has in mind when he insists on the unity of ‘theoretical mind’ and ‘practical mind’, and thus on “the thinking will.”²² The second premise then claims that what such a thinking will should will is what reason tells it that it has the most reason to do. In this way, what the agent has the most reason to do settles how a subject should act. Therefore, this leaves that subject with no choice or decision about what to do, as this is settled by what the subject has most reason to do, and once thought qua practical reason has worked out what this is, there is then no space left for some further choice; if in this circumstance the agent nonetheless thinks they have a space in which to make a choice, they must have already pulled back from what they have most reason to do, and so acted irrationally, in a way that undermines their freedom rather than realising it.²³

Thus, for Hegel, as for Luther, if a free choice comes about in this way, something has gone wrong, so by exercising that choice one is only ever opting for the bad and not the good –and so not really exercising a choice at all. Conversely, to be free in a positive way is not to be exercising free choice at all, but following the necessity of reason where it leads– just as for Luther, to be free of sin, and thus to be free in a Christian sense, is not to be exercising free choice, but to be guided by grace. Of course, there are important differences between being determined by reason and being determined by grace, but on this issue of how freedom leaves no room for free choice in this context, they are structurally akin.

The Lutheran context to Hegel’s treatment of these questions is strongly suggested by an important section of *The Philosophy of Right*, where Hegel discusses *Willkür*.²⁴ Like Luther, Hegel presents *Willkür* as a kind of “stepping back” or neutral position, as the agent reflects away from what it is they should do, to give themselves the space to feel that regardless of this, it is still open to them to do “as they please,” which seems necessary to make the content of the action “theirs.” But, Hegel suggests, the opposite is really the case, as the agent is no longer determined by what they have the most reason to

do, which then makes their choice empty and arbitrary: what the agent does is based on what they happen to desire and hence on a given contingency, rather than following necessarily from what they have reason to do. The discussion in the Addition to this section thus famously concludes:

The ordinary person thinks he is free if it is open for him to act by exercising free choice [*willkürlich zu handeln*], but precisely this free choice means he is not free [*aber gerade in der Willkür liegt, daß er nicht frei ist*]. When I will what is rational, then I act not as a particular individual but in accordance with the concepts of ethical life in general: in an ethical action, I do not assert myself, but follow the matter at hand [*in eine sittlichen handlung mache ich nicht mich selbst, sondern die sache geltend*]. But in doing a perverse action [*etwas Verkehrtes*], it is my particularity that I bring onto the centre of the stage. The rational is the high road, where everyone travels, where no one is conspicuous... If you stop at the consideration that, having a free choice [*Willkür*], a human being can will this or that, then of course his freedom consists in this ability. But if you keep firmly in view that the content of his willing is a given one, then he is determined thereby and in this very respect no longer free.

(PR §15A)

Hegel is arguing here that true freedom does not consist in free choice (*Willkür*), as freedom consists in willing what is rational, which leaves no room for free choice, though it does leave room for freely assenting to what reason requires, in seeing that it is rational. If in a rationally determinate situation you insist on trying to exercise free choice, then you will turn away from what is rational and be acting perversely – just like the mediocre artist who wants us to see their personality in the artwork as against the great artist who has followed what is determined by the art-work itself (PR §15A). So, if the choice is operative in this situation, it in fact only goes one way, towards the bad – and thus is not really free.

However, just as Luther in *The Bondage of the Will* allows a limited place for *libero arbitrio* insofar as God has left us dominion over the natural world (WA 18:671–2/LW 18:118–9), which enables us to exercise choice without turning against God, so Hegel allows a limited place for *Willkür*, where reason leaves options open to us which we can decide between without turning against reason, as here reason is silent. Hegel thus gives *Willkür* a subordinate place in his *Philosophy of Mind*, where it comes in only at the point of choosing between which inclinations the subject decides to satisfy. But, because the subject has no reason to prefer one of these inclinations to the other (as if it did have such a reason, it would not take itself to have any such choice), whatever decision it makes will seem purely contingent and capricious to the subject, and so will appear as a “nullity” to them, so any satisfaction they may feel in acting on that inclination “is at the same time left behind.”²⁵ Likewise, Hegel allows a place for *Willkür* at several points in the *Philosophy of Right*, for example in the

discussion of private property (PR §§45–6), and of civil society (PR §§182, 185, 189, 206).²⁶ However, like Luther, he clearly holds that we need to be careful not to take this as anything more than a limited model of freedom which only arises when reason leaves matters open, arguing for example that education is all about the “hard work” of overcoming *Willkür* (PR §187 R).

Thus, in a way that leads us back to the themes of §1 of this chapter, and the rectoral address on the Augsburg Confession with which we began, it is now less surprising that when in the remark to §124 of the *Philosophy of Right* Hegel famously associates Christianity with “the right of *subjective freedom*” and thus of “the subject’s *particularity* to find satisfaction,” he is not here talking about the freedom of *Willkür*; rather this is the right to insist “that whatever [the subjective will] is to recognize as valid should be *perceived* by it *as good*” (PR §132). It is this right that Hegel took Luther to stand for in his opposition to the Catholic Church in a way that ushered in modernity. But our discussion in this section suggests that Luther also perhaps taught Hegel not to confuse subjective freedom in this genuine sense with a view that sees freedom as the capacity to step back from the good, and instead make some sort of arbitrary choice; and for Hegel, this lesson may have been equally important in shaping his thinking on the nature of what it is for us to be free.²⁷

Notes

- 1 For some discussion of Hegel’s relation to Luther, mainly from the perspective of their theological views, see Mure (1966), Asendorf (1982), Thaidigsmann (1983), Jaeschke (1986), Merklinger (1993), and O’Regan (1994), Hoffmeyer (2011), Houlgate (2015), and Farneth (2017b). Luther is also mentioned in Farneth (2017a). Because my focus in this paper is on the theme of freedom, I will not be assessing Hegel’s stated commitments to Lutheranism as a matter of his faith, which have often met with some scepticism, e.g. from Charles Taylor: “Whatever the sincerity of [Hegel’s] claims to be an orthodox Lutheran, it is clear that Hegel only accepted a Christianity which has been systematically reinterpreted to be a vehicle of his own philosophy” (Taylor 1975: 102).
- 2 Pinkard (2000: 627–31). With his typical eye for a telling and amusing detail, Pinkard tells us that Hegel prepared for the address by practising his Latin with Friedrich Förster, and “appropriately” sharing with him “several bottles of Lacrima Christi wine...a famous Italian wine from Vesuvius made from a variety of grapes in use since Roman times.”
- 3 This not to say, of course, that freedom is the only idea that might connect Luther and Hegel: others could include dialectic, divine hiddenness, a hostility to logical formalism, as well as various theological questions that have been emphasised by those working on Hegel’s philosophy of religion. For an overview see Stern (2020: §2).
- 4 See e.g. (PH 424/TWA 12:504): “[In the Reformation] The reconciliation between God and the World was limited in the first instance to an abstract form; it was not yet expanded into a system by which the moral world could be regulated.”
- 5 As Pinkard (1996: 80) notes in his commentary on the *Phenomenology*, Hegel frequently connected the Reformation to the rise of modern science. See, for example, (EL §7).

6 “What Luther inaugurated as faith in feeling and in the testimony of the spirit is the same thing that the spirit, at a more mature stage of its development, endeavours to grasp in the *concept* so as to free itself in the present and find itself therein.” (PR 22/TWA 7:27).

7 For a rather moving example of Luther’s thinking here, see the end of his debate with Erasmus in *De servo arbitrio*, where Luther states:

For my own part, I frankly confess that even if it were possible, I should not wish to have free choice given to me, or to have anything left in my own hands by which I might strive towards salvation,

for otherwise

I should nevertheless have to labor under perpetual uncertainty and to fight as one beating the air, since even if I lived and worked to eternity, my conscience would never be assured and certain how much it ought to do to satisfy God.

(WA 18:783/LW 33:288–9)

8 See Hegel (PH 415/TWA 12:495).

9 This sentence is taken from the 1822–3 lectures: see LPHW 505/VPG 500.

10 See Houlgate (2006, 60–6) and Houlgate (2015), where he discusses Hegel’s relation to Luther.

11 See also (EL §23R):

For thinking is true in terms of content only if it is immersed in the *basic matter* at hand [*die Sache*] and in terms of form only if it is not a *particular* instance of being or doing of the subject, but instead is consciousness conducting itself precisely as an abstract ‘I,’ *liberated from all the particularity* [*Partikularität*] that attaches to qualities and conditions otherwise, and only enacting the universal through which it is identical to all individuals.

12 Around 1517, Luther started signing himself “Eleutherius” (meaning “the freed one” in Greek), rather than the family name of Luder, one assumes mainly to mark the liberating effects of his “Reformation breakthrough”, but perhaps also to escape the rather scurrilous implications of his original name.

13 See Han-Pile (2020).

14 See (WA 7:66/LW 31:367):

I will therefore give myself as Christ to my neighbour, just as Christ offered himself to me; I will do nothing in this life except what I see is necessary, profitable, and salutary to my neighbour, since through faith I have an abundance of all good things in Christ.

15 See also the *Second Disputation Against the Antinomians* (1538), where Luther speaks of the law being “empty” (*lex vacua*) when the law no longer presents itself in an accusatory form – which is how it is experienced by “the angels and saints in heaven” who “do with joy the things of the law” (WA 39.1:433/Luther 2008: 91–2). And see the *Sermons on the First Epistle of St. Peter* (1523), (WA 12:331/LW 30:77):

Christians...are not obligated to do anything more than serve and help their neighbour with all they have, just as Christ helped them. All their works are performed without compulsion and for nothing; they flow from a happy and cheerful heart, which thanks, praises, and lauds God for all the good things it has received from him. Thus St. Paul writes in 1 Tim 1:9 that ‘the law is not laid down for the just;’ for of their own accord they do without recompense and unbidden everything God wants.

- 16 As is often noted, Hegel is more circumspect in his references to love in his later writings; but as this comment from his lectures on Logic of 1831 suggest, his basic view on this issue did not change significantly:

Love is completely speculative. Commonsense is speculative in the same way, but in reflection upon itself it forgets its true speculative character. In law I assert myself, my personality with all its singular interests. Law is a field in which the difference of persons is held fast in their respective rigidities. Within love, within the form of the concept, this whole field as found in law has disappeared. Blessedness is the actuality of the feeling of being in complete harmony, the feeling of satisfaction and of this peace.

(VuL174/LL: 172)

- 17 See Hegel (ETW 144-5/TWA 1:189–90). The first two parts of *The Positivity of Christian Religion* were composed in 1795–1796 (where this material on self-legislation comes from the end of Part I), while *The Spirit of Christianity* was probably composed in 1798–1799, and Part III of *The Positivity* after that, around 1800.
- 18 As McGowan notes, Pinkard's (2000: 684–5n47) claim that this critique of Judaism is inspired by Kant seems questionable, as Hegel's critique of the latter parallels his critique of the former, so I agree with McGowan when he writes: "It is Hegel's turn away from Kant that leads him away from Judaism and its commitment to the law. Kant's own hostility to Judaism has nothing to do with Hegel's" (McGowan 2019: 108). However, McGowan fails to note that in moving to this criticism of Judaism for its legalism, Hegel was returning to a familiar Lutheran trope, rather than developing a new position of his own.
- 19 For example, in the *Heidelberg Disputation* (1518) Luther had written that "Free will, after the Fall, exists in name only, and as long as it does what it is able to do, it commits a mortal sin" (WA 1:354/LW 31:40).
- 20 Erasmus's title is multi-layered, as Smith (2011, 24, Note 2) observes:

The very title, 'Hyperaspistes,' gives an indication of the kind of philological play and bitter sarcasm that often permeated these exchanges. The term derives from the adjective meaning 'protected by a shield' and implies that the work is Erasmus's self defense. However, there is more to the term than that. Luther had occasionally referred to Erasmus as a 'viper' (*vipera* in Latin, *ὄφις* in Greek), and Erasmus seems to imply that he is playing the role of a 'super snake'.

- 21 As the editors of *The Bondage of the Will* note, Luther's position here has some affinities with debates concerning the "liberty of indifference" (*liberum arbitrium indifferentiae*); see LW 33:115n29. For further discussion of Luther's position which sets it in a wider context, see Løgstrup (2020, 51–71).
- 22 Cf. (ES §469, §469R):

This concept, freedom, essentially takes the form of thinking; the way of the will by which it makes itself *objective* mind is to rise to the thinking will – to give itself the content that it can only have as a will that thinks itself. True freedom is ethical life, where the will has for its purpose a universal content, not subjective, i.e. self-centred content; but such content is only possible in thinking and through thinking; it is nothing less than absurd to want to exclude thinking from ethics, religion, lawfulness, etc.

- 23 "[T]he concept of freedom must not be taken in the sense of the arbitrary *Willkür* of an individual, but in the sense of a rational will, of the will in and for itself... Freedom is just thought itself; he who casts thought aside and speaks of freedom knows not what he is talking of. The unity of thought with itself is freedom, the free will. Thought only as willing [*wollend* – rather than *Willkür*] is the drive to

sublate one's subjectivity, the relation to existence [*Dasein*], [and so] to realize oneself, since in that I am endeavouring to place myself as existent [*Existierendes*] on a par with myself as thinking. The will is only free as thinking [*Der Wille ist nur als denkender frei*]" (LHP 3:402/TWA 20:307–8). Cf. also A 1:98/TWA 13:136:

Caprice [*Willkür*], of course, is often equally called "freedom"; but caprice is only non-rational freedom, choice [*Wählen*] and self-determination issuing not from the rationality of the will but from fortuitous impulses and their dependence on sense and the external world.

- 24 For a more general discussion of Hegel's conception of *Willkür* which covers some similar themes, see Englander (2020).

- 25 ES §§477–8. Cf. also PR §17, and EL §145A, where Hegel discusses *Willkür* in the context of his discussion of contingency:

Now, overcoming the contingent, so construed, is generally the task of knowing [*Erkennens*], on the one hand, as much as in the domain of practice, on the other, it is a matter of not resting content [*stehenzubleiben*] with the contingency of willing [*Wollens*] or arbitrary choice [*Willkür*].

- 26 Some might suggest that the monarch should be added to this list, for example Marx (1981: 227/1975: 25), translation modified: "In the state the *monarch* is the element of *individual will*, of groundless self-determination, of arbitrariness [*Willkür*]." However, while Hegel does seem to give the monarch a role in cutting short inconclusive debate between advisors which fits the model of legitimate *Willkür* in cases where reason leaves matters indeterminate (PR §279 R), in general Hegel comments that this is not the situation so that the monarch's

'I will'...does not imply that the monarch may act arbitrarily: on the contrary, he is bound by the concrete content of the advice he receives, and if the constitution is firmly established, he often has nothing to do than to sign his name.

(PR §279A)

This suggests that the monarch's will is not groundless because arbitrary, but groundless because he is not fully aware for the reasons for his willing, which are given to him by his advisors, which is what makes his self-determination abstract – he just knows that given his role in the constitution, this is what he is to will, though he does not fully understand why.

- 27 I am grateful to the editors and to the fellow contributors to this volume, who provided very useful feedback on an earlier draft, and also to the audience of a Hegel Society of Great Britain conference in 2019.

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3 Reading the *Philosophy of Right* in Light of the *Logic*

Hegel on the Possibility of Multiple Modernities

Arash Abazari

3.1 Hegel's Middle Position on Modernity

Broadly speaking, two views of modernity are prevalent in contemporary debates. The first dates back to the nineteenth century, having been articulated by philosophers such as Hegel (according to popular interpretations of his work) and John Stuart Mill, and survives today in “modernization theory” and in the work of such thinkers as Francis Fukuyama. This view can be described in both economic and political terms: economically, modern society is organized on the basis of the institution of the free market, as well as a set of regulations that guarantees the free exchange of commodities; politically, it is organized on the basis of individual rights, the rule of law, a representative democracy based on an aggregation of individual interests, and formal contestation in the public sphere. According to this view, this is the *only* way of becoming modern; which is to say that modernity is tantamount to capitalist liberal democracy. The West has already achieved modernity, whereas most other areas of the world (the so-called East, Third World, Global South, etc.) have lagged behind. These other societies are, so to speak, still in the “waiting room” of history; their historical status is that of the “not-yet;” they must wait to grow sufficiently mature to “catch up” with the West, and eventually enter into history proper.¹

If we allow that there is only one unique way of becoming modern, that the West has already and fully achieved modernity, and that societies outside the West have no option but to become modern in that unique way, then a justification for colonialism does not seem far off. At the same time as hailing the principle of liberty as underpinning the modern society in the West, John Stuart Mill writes unabashedly that for “those backward states of society in which the race itself may be considered in its nonage,” liberty is of no use. Rather, “despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement” (Mill 1991: 14–5). In the *Considerations on Representative Government* he goes so far as to claim that, since in those “barbarous” or “semi-barbarous” societies of India or Africa “a good despot is a rare and transitory accident,” it is necessary for colonizers to install and reinforce a despotic state. The colonial state is immune to “the

precariousness of tenure attendant on barbarous despotisms,” and can help the barbarous nations to gradually mature into modernity; such, he concludes, “is the ideal rule of a free people over a barbarous or semi-barbarous one” (Mill 1991: 454). In other words, for Mill, the authoritarian colonial state is the handmaid of historical progress and instigates or facilitates the transition into modernity.²

It was exactly in reaction to this monolithic, colonialist conception of modernity that postcolonial theory gradually emerged (in the 1980s), subsequently (since the 1990s) acquiring a respectable position worldwide via the influence of Western academia. According to postcolonial theory, there is genuinely no such thing as “modernity.” What the West erroneously calls “modernity” is nothing but a highly parochial way of thought, and of economic and political organization, that developed by accident first in the West and then by the exercise of military violence or economic power was subsequently “universalized.” Thus, there is no universal history, universal philosophy, or universal social theory. There is only the parochial history of Europe, the parochial philosophy of Europe, and the parochial social theory of Europe, which are being sold as universal history, universal philosophy, and universal social theory. Some go so far as to claim that even the hard sciences, such as physics, are inflected by the place in which they arose and the social relations therein, and thus that universal validity cannot be claimed for their contents.

The hallmark of postcolonial theory is the stress on the “difference” or “incommensurability” between the so-called East and the West. The social reality in the East is so *fundamentally* different than, hence incommensurate with, that of the West that to analyze the East one cannot use the categories of the social sciences developed in the West. Even the very structure of agency of people in the East is posited as fundamentally different than, and thus incommensurate with, that of the people in the West; while the former is motivated primarily through concerns for “religion” and “community,” the latter is primarily motivated by self-interest and the pursuit of monetary gain. Postcolonial theory thus emphasizes the role of culture in lieu of politics and economy, and even seeks to reinterpret politics and economy in cultural terms.

Postcolonial theory has secured some tenured jobs in certain respectable universities of the West, usually for people with ethnic roots in the East; and yet it is regressive. Postcolonial theory is exactly the mirror image of the nineteenth-century racism of such philosophers as Mill. While Mill thinks that democratic rule is only suitable for Western societies and leads to disaster if used by “barbarous” nations, postcolonial theory posits that the ideas of self-determination and autonomy, first historically developed in the West, remain *only* a Western construct, and are not suitable for the radically heterogeneous societies of the East. By doing so, and especially because it has acquired an aura of respectability from Western academia, postcolonial theory actually feeds into the machinery of authoritarian states in non-Western

societies: while self-determination and democratic collective determination may be good for the West, it is not suitable “for us,” since we have a different culture, religion, sensibility, etc., from “them.”³

Rejecting both modernization theory and postcolonial theory, I want to suggest in this chapter that there is a third way of understanding modernity, one that is also inspired by Hegel’s philosophy. Contrary to modernization theory, this third Hegelian way respects “difference” (in a way that will be specified later), while at the same time, contrary to postcolonial theory, does not engage in dividing the human species into *fundamentally* different or incommensurate groups. This third way, that is, lauds modernity as the universal achievement of humankind, while at the same time does not offer a rigid, “eurocentric” definition of it.⁴

Of course, Hegel occasionally writes or talks in a way that suggests he believes in some version of modernization or even colonialist theory.⁵ But, I argue, if we read Hegel’s work on the basis of the reasoning that it offers, rather than on the basis of the occasional chauvinistic claims that he makes, we realize that Hegel indeed provides a third conception of modernity, one that is committed to the legitimacy of modernity, but nonetheless can conceive of modernity in multiple ways. In order to do this, I suggest that we need to turn to Hegel’s institutional account of modernity in the *Philosophy of Right* (PR), but with an important proviso: namely, rather than reading the PR on its own, as is occasionally done in the literature on it, we must read the PR in light of the most general normative principles that ground Hegel’s justification of modern institutions, normative principles that are sufficiently expounded only in the logic of the Concept of the *Science of Logic* (SL).

I argue that Hegel’s theory of modernity is to be found at the conjunction of the PR and the SL. Neglecting the logic of the Concept, while attending only to the PR, may and indeed will result in reifying Hegel’s institutional account of modernity into an inflexible blueprint, and collapses Hegel’s distinct theory of modernity into a version of modernization theory. Conversely, neglecting the PR, while attending only to flesh out the normative principles of the logic of the Concept, will deprive Hegel’s theory of modernity of its empirical, historical underpinnings, and water it down to a predominantly normative social theory reminiscent of that of John Rawls, and hence susceptible to the same deficiencies. Moreover, I will argue that Hegel’s PR helps us to conceive of modernity primarily in terms of the political and economic organization of society, leaving aside the cultural, religious, “traditional,” and “communitarian” elements of society, which are not germane to, and usually obscure, a theory of modernity.

3.2 The Three Layers of Historical Explanation

The idea that the PR must be read in light of the SL is not an ad hoc suggestion; indeed, Hegel clearly and actively asserts it. In the Introduction to the PR, Hegel emphasizes that for understanding the method of the book

“a familiarity with the nature of the scientific procedure in philosophy as expounded in philosophical logic is here presupposed [*vorausgesetzt*]” (PR §2). He even goes so far as to claim that the organizing principle of his social and political philosophy “is presupposed [*vorausgesetzt*] from speculative logic” (PR §33). However, Hegel does not set out what it specifically means that the PR “presupposes” the logic, and the relation between the two is open to interpretation.

It is not my intention here to discuss the relation of the PR to the whole of the SL, and I leave aside how the former’s methodology and organization presuppose the latter. My aim is more specific: I want to explain what role the third part of the SL, i.e., the logic of the Concept, plays in and for the PR, and I want to suggest that we can discern this role when we clearly distinguish the three orders of explanation that are present in the PR. In order to do this, let us first take a short detour through the work of the German historian Reinhart Koselleck on three layers of historical temporality, as this can clarify Hegel’s account.

In his essay “Sediments of Time,” Koselleck argues that three layers of historical temporality can be analytically distinguished: the first layer is that of “singular events” that can occasionally have irreversible consequences. Singular events can occur in any domain of history: from military victories or defeats, to the outbreak of economic crises, to technological innovations, to cultural or religious happenings. The singular events, however, do not obtain on their own but are always nested in the “structures of repetition” which make those singular events possible. In order to elucidate this point, Koselleck gives the ordinary example of receiving a letter informing one of the death of a close relative. This singular event, which might be shocking for the receiver of the mail, occurs in the broader, ordinary, institutional network of a carrier delivering mails on a daily basis. It is only within the structure of repetition of quotidian mail delivery that the said breaking news can transpire. To give another of Koselleck’s examples, any utterance in language that is sufficiently complex is always in some sense novel and without precedent. Yet although the utterances and the meaning that they convey are new, that novelty is made possible by a pre-existing linguistic inventory that is relatively enduring and recurrent (Koselleck 2018: 4–5).

These two layers, i.e., the layer of singular events and the structural layer of repetition, do not exhaust the realm of history. Koselleck insists that there is a yet deeper layer that reaches beyond any single generation, or beyond any two generations that can directly communicate with each other. This third layer – “transcendental,” as he calls it – undergirds multiple generations, and defines their general worldview. According to Koselleck, it is always important to pay due attention to this third layer in historical explanation, since “without it, there is no final explanation – however provisional it might be – and it would be impossible to translate experience into [real] knowledge” (Koselleck 2018: 9).⁶

Koselleck's scheme, which is influenced by the notion of temporality in Heidegger and Gadamer, can be adapted to clarify Hegel's thought. Thus, corresponding to Koselleck's account we can analytically divide modern social and political reality – and, accordingly, the PR, which is meant to capture modern social and political reality – into three layers: (1) the layer of the immediately empirical, (2) the layer of the institutional, and finally (3) the layer of the logical. The first layer refers to specific events that may occasionally have some irreversible consequences. An example of this from Hegel's own time is the murder of the ultra-reactionary playwright August von Kotzebue in Berlin on March 23, 1819, which the conservative forces then used as a pretext to crackdown on the reformist forces, resulting in what later was called the period of Prussian Restoration (Pinkard 2000: 435ff.). The first layer of immediate events does not occur in a void, but always in an institutional framework, which constitutes the second layer of social and political reality.

While access to the first layer is secured by observational or empirical reports, the second layer consists of a framework that is not immediately available to observation; it is an invisible institutional structure that makes the occurrences in the first layer possible. To say that this second institutional layer is invisible does not mean that it has any supernatural quality: it means that institutions have some sort of objectivity that is not reducible to any particular action or event, and pre-dates and partially outlasts any specific individual or event. Correspondingly, the objectivity of institutions cannot be grasped perceptually; it can only be secured through inferential knowledge.

Hegel's project in the PR is primarily concerned with explaining the second, institutional, level of historical reality. Hegel's explication is not purely descriptive; rather, in accordance with the main project of the PR, namely the justification of the legitimacy of modernity, Hegel seeks to show how the central institutions of modernity are rational. The main legal, moral, social, and political institutions of modernity that undergird the immediately observable social and political phenomena are rational, Hegel believes, since they embody and give expression to freedom (PR §4).

Similar to Koselleck, who believes that the two levels of historical explanation are not sustainable by themselves and must be anchored in a yet deeper multi-generational historical layer, Hegel maintains that an explanation of the extant institutional framework of modernity cannot on its own be sufficient. Rather, such an explanation must be buttressed by appeal to some general meta-norms that govern modern society as a whole. It is in the Logic, specifically in the logic of the Concept, that Hegel undertakes a systematic exposition and defense of the most general norms of modern societies. That is to say, the Logic is not a historically invariant and purely a priori metaphysics which Hegel then *applies* to the extant historical reality in order to justify it; rather, the logic of the Concept aims to explicate the already implicit norms that, across several generations, modern people in their lived experience have taken as the ultimate tribunal of justification. Thus, we have already a

glimpse of what it means that the PR “presupposes” the logic: it means that the justification of modern institutions as explicated in the PR cannot be successful unless it is informed by the general normative principles of modernity, explication of which lies in the logic of the Concept.

Disentangling the various layers of Hegel’s theory of modernity in the PR helps us to gain clarity regarding Hegel’s project, and so enables us to remove two sets of confusions that occasionally surround the PR. The first is the confusion between the first and the second layer of historical explanation, i.e. between the immediate empirical level and the deeper institutional level. This confusion lies at the heart of those readings of Hegel that accuse him of being the ideologue of the Prussian Restoration. To these accusations, it must be retorted that the object of Hegel’s rational justification is not the immediately observable social and political events, but the deeper institutional structure of modern societies in general. The distinction between the first and the second level also helps us to distinguish the merely empirical claims that Hegel happens to make from the more substantive reasoning that he offers for justification of the institutions. For example, while Hegel, the historical person, makes some empirical claims regarding the gendered division of labor (PR §166) – empirical claims that in view of our current sensibility cannot but appear outrageous – the reasoning that his philosophy offers concerning the justification of the institution of the nuclear family is of a different order of explanation and must be evaluated accordingly.

The second set of confusions occurs when the meta-norms that are authoritative across several generations are collapsed into the institutions that Hegel actually advocates in the PR, such that those specific institutions are regarded as the only possible instantiation of those general norms. In the PR Hegel erroneously defends constitutional monarchy, but he does so because he thinks the sovereignty of the modern state (which, he thinks, is necessary for the realization of general norms underpinning modernity) must ultimately be exemplified in one single person (PR §280). One could reject Hegel’s defense of constitutional monarchy and still accept the rational core of his argument: one might posit, for instance, that in order to count as being in harmony with general norms of modernity, sovereignty must rather be exemplified in, say, an elected president. A similar confusion between general norms and extant institutions reigns in the bowdlerized version of Hegel offered by Fukuyama, such as where the latter claims that the values of modernity can be embodied only in liberal, capitalist societies.

3.3 The Meta-Norms of Modernity

Thus, for Hegel modern institutions are legitimate because they embody, and give expression to, a set of meta-norms that form the ultimate horizon of justification for modern people across several generations. According to Hegel, the central meta-norm of modernity is freedom, and he devotes several sections of the Introduction to the PR (especially §§5–7) to explaining

what he means by this concept. However, from these sections alone, which are concerned more precisely with setting out the structure of the “free will,” it is not entirely clear (1) why Hegel thinks freedom must be considered as the central meta-norm of modernity, (2) why freedom must be understood in the specific way that Hegel propounds there, and (3) how the central norm of freedom must be further determined, so as to provide more specific meta-norms that are to guide our evaluation of modern societies.

The answers to these questions are arguably to be found in the logic of the Concept of the SL. In the interests of space, I cannot engage in any detailed discussion of the logic of the Concept, and I content myself with some brief remarks. In Hegel’s logic, the logic of the Concept develops out of the logic of essence and aims to overcome the problems that the development of the categories of the logic of essence engenders. In the logic of essence, Hegel aims to give an exposition and analysis of central meta-concepts or meta-categories that are necessary for any (natural) scientific discourse. Any scientific discourse must be able to distinguish between “semblance” and “essence,” i.e. between what only “seems” to be the case (that the sun moves around the earth) from what is “essentially” the case (that it is the earth that in fact moves around the sun). It must be able to specify what requires explanation (the “actuality”) from what can be simply ignored (“contingency”). It must be able to specify the “causes” of events, or the invisible “forces” whose “expression” constitutes the observable phenomena in the way they are. Finally, it must be able to give a holistic picture of how different elements of the theory hang together and how the theory as a whole can explain the totality of the interrelated phenomena (“substance”).

The meta-categories in the logic of essence are able to provide the logical framework of theories about natural or physical phenomena, but they are profoundly insufficient to explain specifically human, social, or political phenomena, what Hegel calls the spiritual phenomena. According to Hegel, a merely scientific analysis of mental disorder in terms of disturbances at the level of neurotransmitters, or a merely behavioristic analysis of how people respond to certain advertisements, or a merely social analysis in terms of the tensions between forces of production and relations of production cannot be sufficiently explanatory; since these phenomena ignore the constitutive feature of humanity, i.e. its “freedom” or “agency.”

Thus, Hegel takes his aim in the logic of the Concept to set out the meta-categories that are necessary to understand “freedom.” In contrast to the logic of essence, “in the *Concept*, the kingdom of *freedom* [*das Reich der Freiheit*] is opened” (SL 513), he writes. With the categories of the logic of essence, we may be able to explain economic laws, or social forces, or psychological motives, but the logic of essence on its own can only explain in what ways individuals are *determined*; it cannot explain how individuals are *self-determining*. That is to say, a merely scientific discourse cannot explain the actual agency or freedom of individuals. In order to explain agency, we must give an account of norms that guide actions of individuals. In accord with the

generality of the project of the SL, the norms explicated in the logic of the Concept are not institutional norms of the type discussed in the PR. Rather, they are the most general norms, i.e. the meta-norms, that are to ground the institutional norms.

To speak in social and political terms, Hegel thinks the fundamental meta-norm of modernity is freedom, and not well-being, or security, or happiness, or control of nature. For Hegel, freedom is understood not in terms of “negative freedom,” i.e. freedom from interference; rather, for Hegel, the freedom that provides the ultimate horizon of intelligibility for modern people is autonomy, i.e. self-determination. For a modern individual, whether in her private life or in her social or political interaction, what counts as a successful life is to be able to control her life in a way that she regards as essential to her practical identity, a life in which she can define and carry out projects that make her life meaningful.

For the theories of negative freedom, the only thing that counts as freedom is the freedom of individuals from interference. As long as the space of non-interference is not constrained, individuals are free, whether they live under a democratic rule or under a “liberal-minded despot”; or whether they live in a republican Lucca or in a despotic Constantinople (Berlin 2002: 176; Hobbes 1996: 149). In contrast to these theories, for Hegel, individual freedom or autonomy can only obtain in a society where there are civil associations, which themselves are free, and more fundamentally in a polity which itself is free. Thus, for Hegel, freedom is not only a property applicable to individuals but also applies to groups and civil associations, as well as to the polity as a whole.

Thus, according to Hegel, the three more specific yet still sufficiently general norms of modern societies are individual autonomy, group autonomy, and collective autonomy, and he believes that the first obtains only when the two others obtain. To use his own terminology, the three meta-norms of modern society are “individuality,” “particularity,” and “universality.” The three must cohere in a systematic way, such that each is simultaneously constituted by, and constitutes, the two others. The overall logical structure for which individuality, particularity, and universality are moments, Hegel simply calls “the Concept” (*der Begriff*), and he maintains that the relation between moments must be understood through a series of inferences. In the *Encyclopedia Logic* (EL) while elaborating on the inferential relations constituting the structure of the Concept, he explicitly uses the example of “state” to settle his point. This is further evidence that in developing his categories of the logic, Hegel already has social and political issues in mind:

[T]he state, for instance, is, in the practical sphere, a system of three inferences. (1) The *individual* (the person) joins itself [*schließt sich ... zusammen*] through its *particularity* (physical and spiritual needs, what becomes the civil society, once they have been further developed for themselves) with the *universal* (the society, justice, law, government). (2) The will, the

activity of individuals, is the mediating factor which satisfies the needs in relation to society, the law, and so forth, just as it fulfills and realizes the society, the law, and so forth. (3) But the universal (state, government, law) is the substantial middle [term] in which the individuals and their satisfaction have and acquire their fulfilled reality, mediation, and subsistence. Since the mediation joins each of the determinations with the other extreme, each joins itself precisely in this way together with itself; it produces itself and this production is its self-preservation. – It is only through the nature of this joining together, through this triad of syllogisms with the same *terminis*, that a whole is truly understood in its organization.

(EL §198)

Here Hegel explains that the modern society (what he calls the “state”)⁷ is and should be governed by three meta-norms, i.e. individuality, particularity, and universality, which are interrelated through three inferences. According to the first relation or inference, the moment of particularity mediates between individuality and universality. This is to say that there are mediating links – in the form of professional organizations and civil associations – that connect individuals to the state. That is, individuals do not solitarily confront the state as an alien power standing over against them, but, through participating in civil associations, in fact, contribute to the shaping of the state. In the second relation or inference, the moment of individuality lies at the center; which means that individuals are not mere cogs in the machinery of social institutions or the political state. Rather the two latter respond, and are reasonably transformed, by the action of individuals. Finally, and most important of all, the moment of universality mediates between individuality and particularity, which is to say that the institution of the state provides the necessary background conditions for individuals and particular groups to flourish. Hegel ends this fascinating paragraph by claiming that in a rational polity, since individuality, particularity, and universality are inter-defined, each, by contributing to the other, in fact, contributes to its own constitution.⁸

For Hegel, there is no *a priori* guarantee that the three meta-norms of modernity, as well as the harmony between them, will be sufficiently realized in actually existing modern societies. Moreover, there is no *a priori* blueprint for how far or in what ways the collective determination of people in a given modern polity is to circumscribe individual or group self-determination; or for how far or in what ways an individual or group self-determination should be translated into the process of collective determination. Obviously, new forms of economic interactions develop; new forms of social organization emerge; new technology is invented; the configuration of cities changes; and new pandemics break out. A society is truly modern if in response to new challenges or developments, it manages to maintain a good balance between the moments of individual self-determination, group self-determination, and collective self-determination.⁹

Thus, in the SL, Hegel uses the meta-category of “life” (Leben) to indicate that a truly modern society is not petrified or inert; the modern society is not antecedently fixed on the basis of a set of predefined rules or regulations but has the capacity to change its internal organization while remaining modern all the same. Contrary to what may immediately come to mind, for Hegel the main instantiation of the logical category of “life” is not in organic life, but in social and political life, insofar as in the PR, he defines the modern *Sittlichkeit* as “the living good [*das lebendige Gute*]” (PR §142).¹⁰ As modern societies are in this sense lively, their development cannot but be open-ended. The modern society is not primarily to be judged according to a set of fixed social or political institutions; rather it is judged by its capacity to realize the three meta-norms of individuality, particularity, and universality in a more or less sustainable way. Contrary to popularized versions of Hegel, Hegel himself was aware of the open-ended character of the project of modernity, and in the *Lectures on the Philosophy of History* (LPH) insisted that the issue of the actualization of freedom in modernity is still “the knot, the problem ... with which history is now occupied, and whose solution it has to yet work out in the future” (LPH 472).

3.4 The Institutional Principles of Modernity

Thus, the general norms of modernity are set out in the logic of the Concept and include individuality, particularity, and universality, as well as a systematic and dynamic union of them which is grasped through the concept of life. However, Hegel’s theory of modernity cannot be restricted to explicating the norms that are to define the horizon of intelligibility of modern individuals. Hegel is starkly opposed to purely normative social theories of a Kantian bent. Thus, it is important that in his theory of modernity, in addition to his normative account, his specifically historical and institutional account of modernity in the PR is also included.

In the PR, Hegel advocates an intricate institutional design for modernity. The institutions that he defends include, among others, private property, capital punishment, a bourgeois morality whose highest virtues are “rectitude” (*Rechtschaffenheit*) and “honor” (PR §150, §207), the nuclear family, a regulated capitalist market, and constitutional monarchy. I have suggested that zeroing in on Hegel’s institutional design has the danger of reifying or fetishizing it as the *only* possible form of modernity. Now I suggest that, instead of staying too close to Hegel’s institutional design, we should extract a few essential principles that undergird it. This gives us more leeway to interpret Hegel’s account of modernity such that it can include multiple forms of modernity. The principles that can be regarded as essential to a Hegelian social and political account of modernity are (1) the central importance of politics and economics in the definition of modernity, and the irrelevance of culture, tradition, ethnic ethos, and religion; (2) the separation of the political from the economic; and (3) a post-Westphalian global order based on the sovereignty and self-determination of states.

Let us begin with the first point, namely that culture and religion are not pertinent to the definition of modernity. In the PR, Hegel is engaged with answering two central questions: First, how should the common life be organized, such that it allows both for individual self-determination and collective self-determination; this can be called the “political problématique” of modernity. Second, how the needs of individuals are to be satisfied, and, accordingly, how the relations of labor must be organized; this can be called the “economic problématique” of modernity.¹¹

Hegel is occasionally regarded as a forefather of communitarianism. If by communitarianism we mean a kind of theory which advocates that modern society must be organized on the basis of cultural traditions, religious doctrines or practices, national ethos, family or clan loyalty, language, or ethnic or racial identity, Hegel is certainly not a communitarian. Communitarianism, in this definition, is a view held by Herder and the Romantics, particularly Schlegel and Novalis, and Hegel explicitly distances himself from them (Ross 2008).¹² According to Hegel, modern society is ineradicably pluralistic, and in any given modern state there are various religions, traditions, and languages. If the principle of the modern state is based on any specific religion or on any specific culture, it inevitably leads to the exclusion of other religions or cultures from the political process. Specifically, following Hobbes, Hegel believes that in modernity, religion, rather than being a source of social cohesion, can function as a source of conflict.¹³ Therefore, the principle of the modern state cannot be derived from religion (PR §270).¹⁴ Moreover, the principle of the modern state is autonomy, and autonomy requires a degree of alienation from one’s surrounding cultures and traditions. A thick conception of tradition and culture, as advocated by communitarians, leads to the naturalization of politics, which should count as a phenomenon belonging to the pre-modern world.¹⁵

This is not to say that culture does not play any important role in Hegel’s conception of modernity. But the culture that Hegel counts as important is the political culture. In order for a modern state to be successful, its citizens must have a certain “political disposition” (*politische Gesinnung*) to “trust” (*Zutauen*) in the democratic, collective political process of which they are a part. This political disposition allows the citizens of the modern state to know that their own individual autonomy depends on, and presupposes, their collective autonomy. This, in turn, enables them to prefer the latter over their own immediate short-term interests, should a conflict obtain between the two. As if to pre-empt the later communitarian misreading, Hegel emphasizes that the modern political culture “is merely a consequence of the institutions within the state” (PR §268) and should not be confused with any specific culture antecedent to politics.

Rather than ethnic traditions, culture, or religion, for Hegel, the main problématique of modernity concerns the relation of the political process to the economic process, i.e. the relation of the state to the economy. Hegel believes that the sphere of the modern economy, as opposed to the ancient or

medieval economy, has an existence of its own different from the political. This is to say that the modern economy follows its own relatively *sui generis* laws and regularities, and cannot be totally determined by *ad hoc* political fiat (PR §189). The separation of the economic from the political, however, does not imply that the economy should be completely left alone. Although Hegel is generally influenced by Adam Smith's economic theory – there was no Marx when Hegel was writing – Hegel nonetheless sees the extreme problems that the free market engenders: “civil society affords a spectacle of extravagance and misery as well as of the physical and ethical corruptions common to both” (PR §185). Hegel concedes that there is no complete solution to the problems that the modern economy creates, yet he argues that in order to reduce those problems to an acceptable degree, the state must actively regulate the general framework within which the economy can function according to its own laws. In addition to maintaining a healthy atmosphere for the economic activities, the state must always aim at the provision of basic welfare for all individuals, including and especially for the unemployed, the basic welfare of whom is not only the precondition of their individual autonomy but also serves as the ground of collective, political, autonomy.

Although the measures the state must take to regulate the economy, or the extent of them, cannot be specified *a priori* or mathematically, Hegel believes that the state must not totally control the economy. The collapse of the economic sphere into the political sphere abolishes the moment of formal freedom, i.e. “the right of particularity,” that is embodied in the modern economy. It is worthwhile to note that, in contrast to the contemporary account of civil society, Hegel primarily defines civil society in terms of the sphere of economy, as well as the professional organizations and trade unions that are closely related to it. The swallowing-up of the economical into the political carries the danger of enervating the professional organizations and trade unions, and thus may pave the way for political authoritarianism or even totalitarianism. According to Hegel, in a well-functioning state, the relation of individuals to the state cannot be immediate. Since the power of the state is infinitely higher than that of isolated individuals, the concerns of individuals must be translated, and actively conveyed, by actually functioning professional organizations.¹⁶

Finally, Hegel explicitly takes a stance against moralistic Kantian cosmopolitanism, as he would equally take a stance against Marxist social internationalism. He believes that although these two positions may be desired, nonetheless the actual arrangement of nation-states is such that cosmopolitanism or internationalism is practically impossible. Since there is no higher effective institutional order than the states that could guarantee the relation of states to one another (PR §333), the modern states must be content with a global order in which each state is recognized by other states as “a sovereign and independent entity in relation to others” (PR §331). The nation-state for Hegel is the historical horizon of modern political arrangements and must be accepted as such.

3.5 The Experience and Expectation of Modernity

I have argued elsewhere that, contrary to Hegel, the project of the PR, and the modern world whose conceptual articulation it is, fails (Abazari 2020: 1–5, 193–204). The modern world has not yet realized – and in the current institutional order cannot possibly realize – the three norms of individual self-determination, group determination, and collective determination. This is so because Hegel significantly underestimates the challenge that the capitalist economy poses for the project of modernity. Contrary to Hegel, it must be conceded that in our time the distinction between the political and the economic, so important for Hegel’s conception of modernity, is almost obliterated. However, rather than politics determining the economy (what Hegel actually feared), it is now the economy that determines politics. Rather than collective autonomy, it is the interest of capital that de facto determines the political process. Concerning the global order, the self-determination of nation-states is effectively undermined by the rule of capital. The harsh imposition of EU austerity measures on Greece in 2015, despite the results of the referendum and the plentiful protests of Greek people against it, testifies to the hollowness of the rhetoric of the self-determination of nations today. The question now is: Given the historical, empirical refutation of the PR, is Hegel’s project of modernity now dead?

The answer is a cautious no. While the project of the PR, if read on its own, fails, I have tried to show that if the PR is read in the light of the logic (something which Hegel himself recommends) it *might* provide a defensible conception of modernity. To substantiate this claim, I would like to refer once again to Koselleck; this time, to his conceptions of “space of experience” (Erfahrungsraum) and “horizon of expectation” (Erwartungshorizont) (Koselleck 2004: 255–75).

According to Koselleck, lived history is constituted by the two main meta-historical categories of “experience” and “expectation.” Experience is the “present past” (gegenwärtige Vergangenheit). That is, for Koselleck, the past is not simply past but is experienced as present in our life. The past is present in our life as individual or collective memory, conscious narration of past events in the form of written or oral history, unconscious habitual continuation of past traditions, or as sedimentation of past practices in the institutions which guide our current life. In contrast, “expectation is the future made present” (vergegenwärtigte Zukunft); which is to say that the future is not simply that which comes after today, but is that which is expected as future presently. Our hopes, fears, anxieties, desires, curiosities, imaginations, and rational planning, which are directed towards the future, are experienced in our present life, and constitute our “horizon of expectation” (Koselleck 2004: 259).

Experience and expectation, rather than being independent of each other, mutually influence each other. Our experience of the past forms our worldview, and thus partially determines our future expectations. Conversely, lived experience is not an inert container of past events ordered merely

chronologically, but gets actively shaped in light of our future-oriented expectations. Koselleck further emphasizes that there is always some tension between experience and expectation, since expectation cannot simply, and without remainder, be deduced from experience; there are always unexpected events that transcend our prognosis based on past accumulated experience. Lived history, that is, occurs at the conjunction of experience and expectation, and neither is reducible to the other.

According to Koselleck, while in all periods of history there is some discontinuity between experience and expectation, in modernity the distance between them greatly expands: “Neuzeit is first understood as a *neue Zeit* from the time that expectations have distanced themselves evermore from all previous experience” (Koselleck 2004: 263). In the pre-modern era, predominantly defined by the peasant economy or guild system, the social, or technological, or scientific changes were so slow that one could expect more or less the same things that occurred in the past to continue to occur in the future. The main change that was expected to transpire in the future was the religious Final Days in the Hereafter, which itself had been determined in past Biblical texts. In contrast, modernity – which was initiated by the Copernican revolution in science, the discovery of new lands, market-based economic relations that disrupted the guild system, rapid technological change, etc. – brought about a deep rift between the experience of the past and expectations of the future. The defining event of political modernity, i.e. the French Revolution, which aspired to bring about a social and political structure that was *radically* different from the past, is inconceivable from a pre-modern standpoint.

Koselleck helps us, I suggest, to better understand what it means to read Hegel’s project of the PR in light of the logic. While the PR continues to lay bare the general structure of our “space of experience,” the logic of the Concept makes explicit the meta-norms operating in our “horizon of expectation.” These meta-norms – the quest for self-determination, social group determination, and political collective determination – are continually translated into our fears, hopes, anxieties, aspirations, plans, and prognoses about the future. These norms are not some ad hoc invention of some philosophers or intellectuals; they are not the result of a mass mania of modern people. They are rather the very norms that are promised by past modern historical experience but never durably and sufficiently fulfilled. For Hegel, keeping the horizon of expectation of modernity in view is necessary, since otherwise we would lose the critical stance with respect to our current space of experience, and our current predicament. For those who think Hegel’s philosophy of history is purely retrospective and does not allow for future-oriented expectations, one may retort that Hegel’s famous metaphor in the Preface to the PR:

When philosophy paints its grey in grey, a form of life has grown old, and it cannot be rejuvenated, but only recognized, by the grey in grey of philosophy; the owl of Minerva begins its flight only with the onset of dusk.
(PR §23)

can be read as being *both* past-oriented *and* future-oriented. Philosophical knowledge of a form of life can only obtain when that form of life has been sufficiently consolidated. But at the same time, philosophical knowledge can discern the petrification of that form of life (which follows its consolidation), thereby contributing to opening up the horizon of expectations for a new form of life. The experience of sinking into darkness at dusk is inconceivable without the expectation of the rise into light at dawn. Although, because of our epistemic constraints, we never know how the future concretely turns out to be, the expectations that we have of the future continue to inflect our present experience.

To conclude, let us consider how Hegel's theory of modernity, as is laid bare in this chapter, fares with regard to modernization theory on the one hand, and postcolonial theory on the other. Hegel would reject the view, posited by modernization theory, that modernity has already been achieved in the West, and that non-Western societies can only aim to "catch up" with the specific institutional order that is currently realized in the West. From the Hegelian standpoint advocated here, the norms of the logic of the Concept are not yet sufficiently realized in the institutional order of Western societies, and, not least because of the failure of the West, the field of experimentation for new forms of modernity is open to all, Western and non-Western societies alike.

Hegel's theory of modernity is also opposed to postcolonial theory, since the latter posits that the norms expressed in the logic of the Concept – individual self-determination; group, social, self-determination; collective, political self-determination – constitute only the horizon of expectations of Western people, while non-Western societies have incommensurate aspirations and expectations. Contrary to postcolonial theory, all areas in the contemporary world are co-eval; they experience the same historical period – modernity. There is no "traditional" society today; there are only better or worse forms of modernity. Further, Hegel's theory of modernity implies a critique of postcolonial theory for being fixated on the role of so-called cultural and ethnic traditions in the organization of society, as if cultural and ethnic traditions were self-enclosed containers, encapsulated unto themselves, separate from the rest of the world. Given the plurality of cultures and ethnicities in any society today, the main *problématique* of modernity – I emphasize, in any society, whether Eastern or Western – must center on affairs that are the concern of anybody in that society, irrespective of culture or ethnicity: and that *problématique* is the economy and politics and the relation between the two.¹⁷

Notes

- 1 I borrow from Chakrabarty (2000: 20) the phrases "not-yet" and the "waiting room" of history for describing non-Western societies. As will very soon become clear, I am wholeheartedly against the postcolonial project; yet I am at one with

its rejection of monolithic conceptions of modernity, conceptions which generally involve a justification of colonialism.

- 2 One might think that this self-congratulatory way of thinking is nowadays a rarity, but of course it is not. “Modernization theory,” burgeoning after the Second World War and still so prominent today, is in its essentials a justification for the continuing colonializing attitude of the West. Colonialism today need not engage in direct warfare – although colonial war is not uncommon, as was the case in the recent US wars against Iraq and Afghanistan – but can be implemented through the imposition of a set of rigid economic policies designed by the World Bank and the IMF (see Harvey 2005).
- 3 For the most potent, indeed definitive, criticism of postcolonial theory in the field of social theory, see Chibber (2013). The idea that postcolonial theory at its core is racist is Chibber’s. For a notable contribution in the field of cultural studies, see Ahmad (1994).
- 4 The term “eurocentric” is one of those ambiguous polemical terms that has become widespread exactly because of the confusion that it breeds. If by “eurocentrism” we mean a property of a set of theories that historically developed first in Europe, Hegel’s philosophy is of course eurocentric (he was after all from a location now called Germany). But if by “eurocentrism” we mean a set of theories that gains legitimacy simply *because* it has arisen in Europe, then Hegel’s philosophy is exactly not eurocentric. Indeed, one can criticize not only Eastern societies but also actually or historically existing European or Western societies on the basis of Hegel’s philosophy. In the Introduction to the *Philosophy of Right*, Hegel emphatically criticizes the confusion between “true justification” and “justification by circumstances.” While the former is based on reason, the latter only cites historical, “external factors” as the ground of justification (PR §3).
- 5 See especially his disturbingly chauvinistic claims regarding the African people in his *Lectures on the Philosophy of History*. See also the (PR §93R), where Hegel maintains that “coercion against savagery and barbarism” (*Zwang gegen Wildheit und Rohheit*) does not count as real coercion at all. For Hegel, there are no relations of right in the state of “savagery” and “barbarism,” and coercion is meaningful only when (modern) relations of right are already established. Like Mill, Hegel compares the savages with children, both of whom must be forcefully “educated” into the state of freedom.
- 6 Koselleck’s third layer of historical explanation roughly corresponds to Fernand Braudel’s concept of “longue durée”, which Braudel distinguishes from the short-term history of events and the mid-term history of longer, secular (economic) trends. See Braudel (2009).
- 7 Hegel uses the term “state” (der Staat) in a broader and in a narrower sense. In the broader sense, the state is the totality of a polity, inclusive of all its legal, moral, social, economic, and political institutions. In the narrower sense, the state is the institution of the political state. In the passage cited, first he uses the term “state” in the broader sense and then in the narrower sense.
- 8 For helpful discussions of what it means that the structure of the state is a system of inferences, see Henrich (1982) and Vieweg (2017).
- 9 Pinkard also advocates a similar view. Reading Hegel in the light of Aristotle’s practical philosophy, Pinkard maintains that modern individuals should endeavor to “strike the balance, the mean, among the unavoidable tensions of modern life. Those tensions are ineradicable but necessary components of modern life. Something like practical wisdom, and not a final metaphysical solution, is the proper response” (Pinkard 2002: 181).
- 10 Recently, Hegel’s political philosophy has been reconstructed by paying central attention to the concept of “life.” For the best treatments, see Neuhauser (forthcoming) and Moyar (2021). While Neuhauser mainly focuses on the material

reproduction of life in Hegel, Moyar elaborates the teleological character of modern social and political life, namely that it aims at the realization of the good. More broadly, Pinkard (2012) reinterprets various aspects of Hegel's philosophy with reference to the Concept of life.

- 11 According to Peter Wagner (Wagner 2008), the three main questions of modernity to which any modern society must provide some answer are the "political problématique," the "economic problématique," and the "epistemic problématique;" the last one refers to the rules governing what counts as valid knowledge. While it is not based on Hegel, Wagner's account fits nicely with Hegel's account of modernity. While the first two are discussed by Hegel in the PR, the third (in its most general form) is discussed in the logic of the Concept.
- 12 Ross gives a helpful account of how Hegel's political philosophy is not based on the organic model of society that Herder and the Romantics advocate; however, he errs insofar as he thinks Hegel's theory of the modern state is based on the notion of "absolute mechanism." Hegel's view of the modern state is still organic, yet in a different sense than the Romantics hold. Namely, while for Hegel the modern state is not based on cultural traditions, it must exhibit the property of "life" which denotes its capacity to respond to challenges in a rational way.
- 13 For an excellent, systematic discussion about the relation of Hegel's political philosophy to Hobbes's, see Bergés (2012).
- 14 In this curious section of the PR, Hegel argues that while the *institution of the church* must be separated from the institution of the modern state, *religion* is united with the state qua the polity as a whole. However, by religion Hegel only means a Hegelian version of Protestantism, which is a religion that respects the autonomy of individuals and has almost no doctrinal content. Since for Hegel (1) the modern society requires an autonomous political process, and (2) any doctrinally thick religion (including actually existing Protestantism) – if it becomes part of the state – obstructs the autonomous political process, religious organizations should strictly remain only as a part of civil society.
- 15 In the *Phenomenology of Spirit* 483ff Hegel takes "alienation" as a necessary stage in the development of modernity, and thus as an essential moment of it. See Terry Pinkard's excellent discussion of how the project of "self-grounding" of modernity requires passing through the "groundlessness" that characterizes alienation (Pinkard 1994: 150ff).
- 16 Hegel's view that the economic must not be reduced to the political is strikingly similar to that of Max Weber (Weber 1994). Weber argues that the total control of the economy by the state does not result in socialism; it results only in the rule of bureaucrats over society, which in turn paves the way to totalitarianism.
- 17 I am thankful to Dean Moyar, Hamid Masoudi, and Benedict Young for helpful comments on the earlier drafts of this chapter. I presented an earlier version of this chapter at Johns Hopkins University, Institute for Research in Fundamental Sciences (IPM), and Tarbiat Modarres University, and I am thankful to the audience for their helpful feedback.

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4 Objective Spirit and Nature

Ludwig Siep

Actual philosophical problems and public debates are certainly not the only standards for the value of philosophical texts more than 200 years old. But they provide motives to focus on just these texts and not others within the grand philosophical heritage. From this perspective, there are certainly good reasons to study Hegel's philosophy of objective spirit as well as his philosophy of nature. The former is critical of both individualistic contract theories of society and strong forms of communitarianism while the latter is opposed to reductive naturalism and to its traditional antipodes, ontological dualism or transcendentalism. Regarding other problems with dualism both in the philosophy of mind and in social ontology – mind-body or individual-institution – they are equally attractive. However, the conceptual means which Hegel offers are in my view only partly helpful.

Already in Frankfurt and Jena Hegel criticizes both the scientific and the moral domination of nature – both justified in his view in the philosophies of Kant and Fichte. They lead to an estrangement between humanity and nature, both external and internal. The subjection of the latter to the moral law of pure practical reason devalues emotional bonds and impedes harmony with oneself and others. The key to overcoming these separations is the concept of life as the basis both of Hegel's philosophy of nature and of moral philosophy. In his early Jena writings, the understanding of nature as life is the way to restore “the being one with the universe, that the universe lives and operates within me” (*Faith and Knowledge* GW 4:408).¹ In one of his early Berlin lectures on the philosophy of nature Hegel sees – according to the student notes (GW 24, 1:5 f.)² – the *feeling* of this unity as the common sense basis of the philosophy of nature: “man finds around him this pulsation; that natural objects (*Gegenstände*) possess a form of existence as justified and enjoying as he himself. He considers nature as an end in itself. This is the basis of a philosophy of nature in the form of feeling.” This feeling, however, is only the starting point and must not be confused, as in many forms of Romanticism, with the method appropriate to understanding the unity and specifications of nature. Instead, philosophy must be able to integrate the scientific knowledge of the times into the explication of nature as a “living whole” (EO §196).³ The same must hold for the systematic understanding of ethical life as a body of rights, customs, and

institutions. These, too, have to allow the unification of citizens into a single (“*Eins*”) autonomous spiritual will, the spirit of the people and its institutional form, the state. Thus the affinity between the human spirit and nature is based on the idea of life – not as a biological but a “logical” concept. This concept is close to the full development of the idea, as Hegel’s discussion in the *Science of Logic* proves. As “absolute” the idea is the complete self-differentiation and self-reflection of the conceptual system constituting every form of reality. But its manifestation within nature and social life is still involved in the process of liberating itself from constellations of dependency or self-misunderstanding.

In this process, however, spirit is the higher manifestation and the “truth” of nature (EO §196).⁴ The life of nature as a whole is characterized by two features marking its inferiority against spirit: namely finitude and “otherness” or “externality.” Spirit has to sublimate this deficiency – in all three of the Hegelian meanings of sublation (*negare, tollere, conservare*) – in order to become an adequate manifestation of the Idea. The forms and levels of nature in this ascending order are all characterized by an incomplete prefiguration of human theoretical and practical spirit. On the other hand, the conceptual structure of nature has to be conserved and transformed in the forms and institutions of ethical life – nature’s ontological inferiority does not prevent its impact on the social order.

Terry Pinkard interprets Hegel’s philosophy of life as a form of naturalism without the reductive tendencies of modern naturalism in the service of the sciences. He regards the relation between nature and spirit – both subjective and objective – as “disenchanted Aristotelian naturalism.”⁵ In my view, this is convincing in view of dualist or reductionist alternatives. But Hegel’s arrangement of the levels of nature and spirit in ascending order towards a self-transparent and self-willing Idea is also marked by a modernized Platonism.⁶ I try to present my evidence regarding the levels of natural life and subjective spirit in the first part (Section 4.1). The second discusses the appropriation of nature within Hegel’s objective spirit (Section 4.2). In the third part, I return to the general definitions of nature and spirit at the beginning of the Encyclopedia sections “nature” and “spirit” (Section 4.3). I conclude with some outlines of a modern concept of nature, with and against Hegel (Section 4.4).

4.1 Natural Life and Individuality

The concept of life in the philosophy of nature has a threefold function: *First*, nature is a “living whole” insofar as it develops and explicates itself in its “process of scales [*Stufengang*]” (EO §196). However, in accordance with the traditional *scala naturae* this development is conceptual, not temporal. Against the latter, he holds that “specific to nature is precisely this externality, to let the differences fall apart and presents them as indifferent existences; the dialectical concept connecting [*fortleitet*] the stages in an ascending order is its interior emerging only within spirit” (EO §195).

The *second* function of the concept of life is to understand every stage or level in itself as a complete differentiation and organization: “It belongs to the development that on each level the totality is understood as liveliness” (GW 24, 1:496). And the *third* function is to conceive of the living organism as the highest manifestation of the idea of life in nature. It is from this top level that the lower levels have to be understood in their function and ultimate purpose. However, this should not be taken, in the manner of traditional subjective teleology, as determined by the aspect of “natural” utility for man’s self-preservation and well-being. Indeed, the lower stages are the conditions for the existence, the understanding, and the execution of the special capacities of the higher, especially the spiritual animals – but not without overcoming their immediate resistance to human ends. Only then is nature, especially its lower levels, appropriate for the execution of moral and ethical freedom as Hegel states with Kant (in the third critique) and Fichte (in his 1796 book on natural right).⁷ But following Schelling, nature is also a prefiguration of spiritual structures and in this respect an “epistemic” condition of spirit’s self-understanding. Both functions determinate the ultimate meaning of nature (see Quante 2018). Even on the level of life, the “movement of her idea” is to “sublate this determination of the idea” namely as “only life” and to “become spirit as her truth” (EO §196) or as the “final end of nature and her true existence” (E § 51).⁸

Two consequences of this “top down” approach have to be distinguished: *firstly*, the lower levels are philosophically only understandable from the higher ones. This is directed against every form of reductive “materialism” deriving the structures and laws of life or even spirit from those of the inorganic elements. For Hegel, there is no neutral matter remaining the same on all levels of nature.⁹ *Secondly*, the “material” of the lower levels is determined so as to be appropriated by the higher ones, especially by the living beings. The true reality of matter and of the mechanical and chemical processes is their amalgamation into the living being, which is a complete “transformation [*Verwandlung*]” (SL 686/GW 12:189).¹⁰ The living individual becomes the “essence and immanent penetrating determination” of them (SL 685/GW 12:188). A similar process of transforming takes place, as we shall see, in the relation between spiritual and non-spiritual living beings (see below p. 89 f.).

Hegel’s understanding of the assimilation of inorganic material by the self-determined process of differentiation and individualizing is often interpreted as close to modern concepts of autopoiesis. However, it seems that Hegel’s position is much closer to Aristotle than to modern biology. In several passages of the *Encyclopedia* and the *Science of Logic* he takes the “germ [*Keim*]” and its potential to generate a completely individualized living being as the “beginning” or “proof” of “idealism,” obvious even for “common perception.”¹¹ This is not an anticipation of a genetic program and its material components, but rather is an immaterial form close to Aristotle’s *eidos* as *energeia*. The “real concept” contains the “complete concretion of individuality.”¹² This “immaterial [*immateriell*], subjective totality is undeveloped, simple and

non-sensual [*nichtsinnlich*]” (SL 188/GW 12:191). But it is able to generate a spatiotemporal and material process – whereas the “non-spiritual, non-living is the concrete concept only as real possibility [*reale Möglichkeit*]” (SL 740/GW 12:241).

Different from Aristotle, however, the essential stages of the ontogenetic process as well as the structures of the species processes of growth and reproduction are prefigured by the moments of a universal concept: “Insofar as life is essentially the concept, realizing itself by self-diremption and reunification, the processes of the plant enter into separate existence [*treten auseinander*]” (EO §269). The same is true for the animal: “The different shapes and orders of animals have as their fundament the general type of the animal determined by the concept” (EO §293). Their systematic unity, however, cannot be reached by morphology since this ends up in a contingent multitude of subclasses and variations. This demonstrates the “weakness” of nature to manifest a complete conceptual system.¹³ A systematic understanding of nature can be reached only – here again, Hegel follows Kant’s third critique (KdU §§83, 84) – if the spiritual being is seen as the ultimate stage and goal of the *scala naturae*. In this view, the stages can be ordered “from the simplest organization to the most perfect, being the instrument of spirit” (EO §293/E §368) – to be sure, the human animal.

The transition from the process of the species reproduction in the non-spiritual animal to the spiritual human being demonstrates the same “top-down” access. With the systematic survey of the processes of animal life, with the genesis of a sort of subjective inwardness (animal feeling), and with the self-sublation of animal individuality in the species, the transition of nature to spirit is accomplished. However, the animal – and with it nature as a whole – remains on the stage of an essential deficiency. As being unable to defend its inner purposes against the “changes of the general external life of nature” the animal life is “in general ill” (*überhaupt ein krankes*) and the single animal “unsafe, anxious and unhappy” (EO §293R) – apparently a critique of materialist views of the happy pre-reflexive animal in the French enlightenment and Rousseau’s early writings. Instead, the individual animal fulfills its species’ destination in self-negation. Contracting copulation with death – two ways of giving room for a new generation – Hegel introduces the transition to spirit: “The death of this life is the origin of the spirit” (SL 688/GW 12:191). “Origin” here means a change to another level of truth and actuality, a level at which spirit becomes evident for philosophy.

The non-spiritual being is not able to conceive the meaning of its life and death as a process of specification and individualization of a “concrete” universal. By advancing to the level of spirit this inner structure becomes visible and the externality of nature itself is sublated: “the last self-externality (*Außersichsein*) of nature has been sublated and the concept being only inherent (*an sich*) in nature has become for itself” (E §376). For the spiritual individual its life and death are conceivable according to conceptual structures, but not as the specification of a biological species. Whereas in animal life

only the process of death and reproduction manifests the universal species, in spiritual life the individual is aware of the process of individualization and free spiritual unification. As a citizen, a religious believer, or a philosophical thinker it represents the necessary actualization of spirit (cf. below p. 92).

4.2 Objective Spirit and the Appropriation of Nature

In order to discuss the relation between objective spirit and nature, I focus on the initial paragraphs of the 1830 *Encyclopedia* section Objective Spirit and a selection of passages in the *Philosophy of Right*.

Two aspects of the beginning of Objective Spirit need some elaboration. *Firstly*, spirit knows *freedom* to be its object and essence (“determination and purpose,” E §482). *Secondly*, objective spirit is “the *absolute idea* ... on the territory of finitude” or “only implicitly” (“*an sich*”) (E §483).

(1) The concept of freedom, which is according to Hegel in the usual understanding “indefinite, ambiguous and open to the greatest misunderstandings” (E §482) has been developed in the preceding *Encyclopedia* section as the essence of theoretical and practical spirit. This again in two respects: For one, the human spirit is able to understand its own distinctive features – such as intuition, imagination, memory, or language in “theoretical spirit,” and feeling, passion, interest, and rational decision in “practical spirit” – as a purposive order of mutually supporting functions, not separate faculties. The overall purpose of theoretical spirit is true knowledge, whereas in practical spirit the overall purpose is the execution of rational ends.

At the same time, the seemingly external content and objects of these functions have been proven to be conceptually structured as well. Thus spirit feels at home not only in its own emotions and cognitive activities but in their objects as well. This feeling and knowing to be one with its own cognitive, emotional, and psychosomatic functions *and* their content is also the end and purpose of individual striving and willing.¹⁴ The self-determination of the rational (universal) will within its self-directed drives and their content is already the (implicit) “concept of absolute spirit” (E § 482).

However, the individual as such, distinguished from social life and its rational order, is not able to achieve this freedom. Free passions, feelings, and interests need to be engaged for rational and universal purposes. They have to overcome their own subjectivity by this content, or “to give to their content rationality [*Vernünftigkeit*] and objectivity as *necessary* relations, rights and duties” (E §474). The “demonstration of the constellations produced by spirit in its development as objective spirit” decides about the “good and rational inclinations and their hierarchy [*Unterordnung*],” depriving them of their “contingency and arbitrariness” (E §474). Thus the treatment of the “impulses, inclinations and passions in their true content is essentially the *doctrine* of the legal, moral and ethical *duties*” (E §474).

(2) Freedom as a rational order realized by free will within a society shaped by a constitution is the “absolute idea,” although still with an “aspect of

external appearance [Erscheinung]" (E §483). The conceptual self-articulation and self-actualization are still confronted with a seemingly or immediately externally given ("vorgefundene") objectivity. Free will in the sense just outlined appropriates and transforms this objectivity.

Hegel distinguishes three aspects of this objectivity: "the Anthropological of the particular needs, the external natural objects of consciousness, and the relation between individual wills each with a self-consciousness as different and particular" (E §483). All three together are the "external material for the presence of the will" (E §483). Establishing a rational order of freedom in or with that material is the decisive step for turning the absolute idea from being only inherent into being for itself in "otherness." The realization of freedom requires its becoming the "actuality of a world [*Wirklichkeit einer Welt*]" (E §484), consisting of a necessary system of determinations of freedom – namely rights and duties¹⁵ – and their "unity" with a singular common will. This unity again has different aspects: The system has authority and power (*Macht*), as enforceable law (*Gesetz*) (E §485), in accordance with rational acceptance (*Anerkanntsein*) (E §484) and internalized by the habits and mentalities (*Sinnesart*) (E §485) of the citizens.

Since our subject is the relation between objective spirit and nature we have to dwell a bit longer on the first two aspects of external objectivity: *First* (A), on the appropriation of "external natural objects" because Hegel in the section Objective Spirit and in the *Philosophy of Right* deals with their appropriation first – namely in Abstract Right; *second* (B) with the spiritual sublation of the "Anthropological of the particular needs" discussed by Hegel in the section on ethical life.

(A) Regarding the external natural objects ("*Naturdinge*") they are not only the material for human self-preservation but above all the means to realize and objectify his rational will (PR § 45). To "determine" external things (*Sachen, res*) by an exclusive legal claim (private property) is necessary for the person to "be as Idea" (PR §41; see also PR §44).¹⁶ It manifests the self-realizing of the concept and the sovereignty of spirit over nature.¹⁷ Correspondingly, it is essential for nature to stand in the relation of "res" as "external in itself" to the personal will.¹⁸ The appropriation of external things realizes their very determination.¹⁹ Limits for private property are not to be justified by characteristics of natural beings,²⁰ but only by rights of other persons or the purposes of the common rational will. To these belong the means to secure the well-being of persons in need beyond their own responsibility. They allow for restrictions by the welfare-administration of the state on the level of civil society²¹ and on a higher level for the defense of the sovereign ethical state (cf. below p. 91 f.).

The justification of unlimited property rights regarding natural beings is based on Hegel's concept of spirit and the "destination" of nature. It is not only directed against traditional natural law. That legal norms and their obligatory force are a product of human activity is, of course, also accepted by modern legislations giving animals a legal status above that of "things." They

concede, however, that there are reasons in our view of animal life justifying limits to appropriation and use.

(B) As to “the anthropological of the particular needs” it seems to pertain to the “system of needs” in the section on civil society (PR §§289–308). This is supported by Hegel’s remarks in PR §§123 and 190, that only here does the human being as “natural” and particular being with needs and interests come into play. The subject of the section is both the liberation (PR §195) of the individual from the dependency on these needs and the establishment of an indirect form of the general will, if only in the shape of “invisible hand” processes. The general structure of sublating natural traits by negating (or liberating), conserving, and transforming them into ethically relevant differences is clearly visible. The process of “multiplying,” “refinement” (PR §191), “dissection,” and “distinction” of the needs and the means to fulfill them is carried out in a system of division of labor, trades, and exchanges. In a market society turning private interests into the promotion of public wealth and the fulfilling of needs into tasks of professions with their own virtues (PR §253), the bonds of nature are broken. Natural needs and inclinations are transformed into means of ethical habits.

However, the “anthropological” (*das Anthropologische*) (E §482) refers to the section Anthropology of the *Encyclopedia* as well. Its first part deals with the “natural determinations” (*Naturbestimmtheiten*) (E §391) of the human soul – among them the differences between nations, races, and sexes (E §§393–7). Under the heading of “natural soul” Hegel discusses characteristics of the embodied soul, influenced by geographic, climatic, and other aspects of the natural environment. The “Anthropology” discusses the individual appropriation of these natural influences by training and directing body and feelings. On the level of objective spirit, they are subject to legal orders and ethical customs. Hegel takes national characteristics, like ways of living, physical constitution (“*körperliche Bildung*”), and intellectual and ethical capabilities (E §394) – with Kant – as “persistent” throughout cultural history (E §394R). The legal and cultural order of states transforms these characteristics, therefore Hegel understands states basically as nation states.²² This does not exclude processes of migration and other sorts of merging and – above all – does not restrict human rights to members of particular nationalities or religions.²³

A clearer correspondence between natural differences and objective spirit is visible regarding the differences between the sexes.²⁴ For Hegel, they do not belong to the contingent realm of nature but to its conceptual structure. In the monogamous heterosexual family and in science and state, gender characteristics are ethically transformed, but at the same time conserved as meaningful differences. “The natural determinacy of the two sexes acquires an *intellectual* and *ethical* significance by virtue of its rationality” (PR §165; cf. E §397). The family unites the different female and male dispositions by emotional bonds as well as institutional duties. The institution of marriage

and family supports their different roles in society and state.²⁵ The male character contains in itself a differentiated attitude to particularity and universality, “personal autonomy [*Selbstständigkeit*]” and the knowing and striving for the universal in science and state. The female is characterized by an undivided immediate subjectivity and ethical feeling. Therefore, her “substantial vocation [*Bestimmung*]” is the family (PR §166). Since Hegel considers heterosexual marriage an ethical duty (PR §167), the leeway to depart from one’s vocation is small, especially for women. From a contemporary perspective, Hegel hardly deserves a place in the “feminist pantheon,” as Robert Brandom claims.²⁶

My last example for the sublation of natural characteristics within objective spirit concerns natural death. It is transformed by the free will of the individual as well as by the rational will of the community. Outside (i.e. historically prior to) the rational order of the community an individual manifests its “spirituality” by risking life for honor or the defense of a normative self-image. Within the legal and ethical order of objective spirit, the right to ask for the offer of one’s life belongs to the manifestation of an “ethical idea, in which *this immediate* individual personality has been submerged, and which is the *actual* power behind the latter” (PR §70). In PR §§70 and 324 Hegel is quite clear about this ethical transformation. Private suicide is unethical but the willingness to offer one’s life for state sovereignty is ethically demanded. It serves the defense of the state’s external sovereignty (a) and realizes the spiritual transformation of natural death (b).

(a) Hegel distinguishes between internal (PR §§278, 279) and external sovereignty (“gegen Aussen,” PR §§ 321–9). The first refers to the organism of the constitution, the mutual support of the whole and its parts including the rights of citizens, communities, etc. (PR §286). Even in this respect, however, sovereignty means foremost the individuality and personality of the state (PR §279). The limits of the rights of its members lie in the maintenance of external sovereignty against imagined (“*Vorstellung*”) menaces from outside (PR §335).²⁷ The sovereignty of the state as an individual and the duty to defend it in wars is the “highest moment” of the state, its “actual infinity as the ideality of everything finite within it” (PR §323). The state as idea is a self-realizing concept idealizing or relativizing all particular rights.²⁸ This claim and the corresponding duties “bring[s] to consciousness and existence the nullity of life, property and its rights” (PR §323; see E §546: “natural life”).²⁹ The primary aim in defending this sovereignty against external menace is thus not the protection of present and future citizens’ rights, as in modern theories of just war and limited state sovereignty.³⁰

(b) In view of our subject, the relation between nature and objective spirit, the citizens’ readiness to die for the sovereign state signifies the ethical transformation of natural death: “It is necessary that the finite, possession and life be manifested [*gesetzt*] as contingent since this is the concept of the finite. This necessity on one side has the form of a natural force and everything

finite is mortal and perishable. But in the ethical being, the state, this power is taken from nature and the necessity is elevated to a work of freedom, to something ethical in character; – the transience of the finite becomes a willed evanescence” (PR §324R). If death is a consequence of a rational will both of the state and – at least as permanent readiness – of the individual, then it is a spiritual purpose, not an unavoidable natural event. By the “recognition” (PR §324) of the relativity of its rights and interests with regard to the state as “absolute, unmoved self-purpose” (PR §258)³¹ it gains its individuality as “not contingent and changeable but being in and for itself” (PR §324). The spiritual individual transcends its own finitude realizing the highest right of its freedom (PR §258) and gaining ethical immortality.³² Different from the non-human animals vanishing in the species, the ethical relation to death is a conscious self-transformation unifying the individual and the spiritual species.³³

The examples for spirits realizing its freedom within nature (E §482) differ in their outcome: The determinations and purposes *outside* the human being are of no moral or legal significance. Their understanding improves the use of natural goods and serves spirits self-reflection. *Within* human nature, however, essential natural traits – like gender differences and mortality – have to be transformed and endowed with a higher spiritual meaning. This transformation of nature into “second nature” as an expression of a free common will, does not change the meaning and value of “first nature.”

4.3 The Concept of Nature

In the opening paragraphs of the philosophy of nature Hegel distinguishes between nature in the idea and nature in its existence (*Dasein*) or being (“*wie sie ist*”) (EO §194).³⁴ Under the first aspect, nature is “divine,” under the second only negative, “its existent reality is without truth” (EO §194). Approving the “way the ancients conceived of matter in general as non-ens” (EO §194) he transfers the non-ens of matter without form to nature in general. Nature is divine as a reflex (*Widerschein*) of the absolute idea, or the system of concepts generated by self-determination and resumed in a self-transparent unity.³⁵ But its way of manifesting the determinations of the concept is their neutral co-existence and singularization (*Vereinzelung*). This relation of separation and distinction is its essential “externality,” both in itself and in relation to the idea.³⁶ The whole system of nature – including natural life – does not have its destination (*Bestimmung*) in itself. Its essential character is its deficiency: “Rightly nature has been determined as *fall-off* [Abfall] of the idea from itself because in the element of externality it is determined by inadequateness of itself with itself” (EO §194R). The truth of nature is the immanent negativity of the idea manifested by the “perishability [*Vergänglichkeit*] and transience into another existence but at the same time into a higher concept” (EO §195R). But despite this affirmation of a Neo-Platonic heritage, Hegel’s spirit includes a modern age “volitional” turn: Rational will is the

highest level of subjective spirit; and as objective spirit, it aims at manifesting the negativity of nature by appropriating it – however, not without conserving conceptual structures of human nature.

For Hegel, nature's alleged "infinite wealth and variety of its forms and, what is most irrational, the contingency" are not to be estimated as natural or divine freedom (E §250).³⁷ Instead, they show the limits of the conceptual permeation of nature. Spirit's and philosophy's task is to appropriate natural forms and relations as far as possible by conceptual cognition and legal or ethical freedom. A philosophy of nature has to bring the essential differences of natural processes into a systematic order following the general structures of conceptual understanding, namely the self-differentiation of a leading – or "germ-like" – thought into an exhaustive system of inferentially connected judgments.

This structural requirement of philosophical "science" remains intact even if philosophy would have to deal with new results or paradigms emerging in the empirical sciences of nature. Modern interpreters often emphasize Hegel's reference to the significance of scientific experience.³⁸ However, those results are only the starting point for philosophy following its own requirements – which for Hegel represent a higher form of science than mathematics³⁹ or empirical science. If he compares the philosophical conceptualization of scientific results with "eating" (E §12), scientific experience and its explanation by laws and mathematical models hardly function as a touchstone for a philosophy of nature.⁴⁰ To the contrary, a holistic reconstruction of the principal laws and concepts of the sciences certainly poses a selective requirement for empirical sciences. This requirement will be even more selective if the reconstruction (and justification) has to prove that these concepts are implicit and self-explicating forms of the "idea" – or the truth that concepts constitute reality.

In the case of the natural differences which are the basis of ethical transformation in objective spirit, it is just as hard to see the possibility of a fundamental "modernization." The importance of natural reproduction for Hegel's philosophy of nature grants the differentiation of the sexes fundamental importance. He reconstructs this distinction on the natural *and* the ethical level according to the moments of immediate unity and self-diremption of particular and universal. As to natural death: to turn it into a rationally approved meaningful destiny – if that should be necessary for spiritual beings – allows, of course, for other ethical purposes. Yet only if the condition of the "concentrated" personality of objective spirit and absolute idea is given up – which may break open the Hegelian framework.

4.4 Towards a Post-Hegelian Concept of Nature

There is an ambiguous passage in Hegel's early (1802) essay on *Faith and Knowledge* concerning the relation between spirit and nature (GW 4:408). Against the rational domination of nature in Fichte he envisions an "unveiling

[*enthüllen*])” of the essence of spirit such that “in it as free nature reflects itself” and elevates “its original, unborrowed [*ungeborgte*] beauty” into “itself as spirit.” The ambiguity concerns the “in it as free [*in sich als frei*]” which could grammatically refer either to nature or spirit. Regarding the context, the reference to spirit seems more likely: Spirit becomes free in the elevation of nature and the latter’s “taking itself back into the ideal and the possible [*das Mögliche*].” In his later philosophy, including the *Lectures on Aesthetics* – natural beauty as deficient anticipation of the beauty of art – Hegel certainly pursued the second path. According to the *Encyclopedia* of 1830 “Spirit has for us⁴¹ nature as its *presupposition*, of which it is the truth, and for that reason, its *absolute prius* [*Erstes*]. In this its truth nature is vanished [*verschwunden*]” (E §381).⁴² The reappearance of nature at the end of the *Science of Logic* is no revaluation of nature. It is but a step in proving the conceptual structure as the truth of nature – or spirit being with itself in otherness. The unfree essence of nature is the inappropriateness of every natural being or process regarding its conceptual *telos*. This inadequacy is its constitutive “illness.” Nature is but a deficient reflex of spirit, not a true counter-pole.

In view of the consequences for objective spirit which we have seen above, and regarding experiences with the human relation to nature since Hegel’s times, philosophy’s task seems to develop a concept of “unborrowed” otherness of nature. Freedom of nature as a truly independent otherness may lie outside its incomplete expression of universal concepts, laws, and self-conscious will⁴³ – in its creativity, variability, and independence from a controlling rational will. But also in the integrity of “lower” levels instead of their complete instrumentality for the higher ones.

Such a reversal, however, should not be a return to reductive naturalism nor a new dualism of nature and spirit. Even for a philosophical interpretation of modern science, there are good reasons in favor of a mitigated form of conceptual realism without Hegel’s strong ontological and volitional claims. That nature – not only the apprehending and judging human spirit – contains universal conceptual structures may be more convincing than nominalism, “data-empiricism” or constructivism.⁴⁴ But even if concepts are more than our access to what is real in nature, not everything real needs to be conceptual. Nor is the scientific explanation by universal laws the exclusive access to natural phenomena – although it is one of the ways to discover and to protect their richness.

Instead of a renewed ontological dualism or a reification of spirit (or mind) and nature, the relation can be seen as mutual inclusion. Human embodied spirit is a dependent part of nature and an episode of natural history⁴⁵ – as far as we know today, a “late-comer” by evolutionary chance. On the other hand, even if conceptual structures are inherent in natural processes, the way we conceive of them depends on human physical, mental and conceptual capacities. These include brain-processing, propositional language, abstraction, reflective attitudes, normative commitments, and the horizon of conceptual articulation which Hegel or modern inferentialists spell out.⁴⁶ Both aspects,

the inherent and the perspectival one, concern the very unity of nature as a realm of causes and spatiotemporal structure – obviously nature does not fall into pieces without our conceiving it so. That nature reflects and understands itself in the human spirit is not an inadequate picture. But this understanding and the practical or aesthetic assimilation need not be nature's ultimate destination. Without rationalistic premises, the degrees of conceptual intelligibility⁴⁷ do not justify degrees of ontological dignity or instrumentality for the rational will.

In view of epochal turns of science and legal culture, Hegel's way of sub-lating non-human and human natural differences seems to require a reversal. This concerns both, the relation of non-human nature to the human will (1) and that of society to human "natural" characteristics (2).

(1) Scientific as well as legal developments regarding environment and animals have challenged limitless human domination of nature. The inner purposes, needs, enjoyments, and sufferings of animals are regarded as relevant for the benevolent impartial observer view. Natural spontaneity, diversity, order emerging by contingent processes, temporary equilibria of eco-systems etc. justify limits for the "sovereign" human will. Natural structures are not to be regarded only as incomplete anticipations of human competences. To be sure, the Neo-platonic strand does not completely push aside Hegel's early vision of a reconciliation between reason and nature. In the later system, it is above all the relation to man's inner nature (in Hegel's Anthropology) which could be used as a starting point for a more integrative and sustainable relation to nature. The self-appropriation of the bodily potentials – a process which is the human soul itself – is far from external domination or technical manipulation. An analogous relation to external nature might be based on pieces of inherent normativity of nature in Hegel – the inner purpose of living individuals, the targets of homeostatic processes, species "virtues," etc.⁴⁸ To tie in this strand to a modern philosophy of nature, however, demands a break with important premises of Hegel's ontology and philosophy of rational will.

(2) Instead of their ethical "elevation," scientific, technical, and moral developments both justify and require the "devaluation" of human natural differences – such as the differences of sexes and races. They are not to be assessed as a necessary self-differentiation of universal concepts. Neither do they justify discriminative norms, customs, and institutions. To human emancipation belongs the reversal of the asymmetry between individual and species as well as its spiritual transformation within the ethical state as self-purpose. Horrendous post-Hegelian experiences – in the sense of the *Phenomenology*, if without its logical background – provoked by the radicalized priority of state or nation lead to some progress regarding the consciousness and institutions of freedom. To respect and protect human dignity is the "obligation of every form of state power"⁴⁹. But except for their final asymmetry, Hegel's insights into the mutual dependence and recognition of individual and community are to be "conserved."

In view of modern experiences, both nature's and man's domination has to be replaced by limitation and release of the others' independence – in analogy to the moment of releasing the other into its own within interpersonal mutual recognition.⁵⁰ Here, however, is an unsurmountable asymmetry: Nothing in extra-human nature is capable of responsible self-limitation. Natural forces and living beings must be “tamed” by the human community defending the preservation, well-being and moral autonomy of its members. But a being which is capable of moral and legal self-limitation can respect and protect – to some degree even re-naturalize – the remnants of uncontrolled processes and systems. This pertains even to the taming of man's “inner nature” for moral reasons.⁵¹ By limiting technical control and perfection of the human body, which includes “moral enhancement,”⁵² human beings save the basis of their moral autonomy.

Notes

- 1 My translation. In general, I follow the translations listed in the bibliography, but occasionally try to keep closer to the German text.
- 2 Lecture notes Ringier 1819/20. I treat the student notes as a sort of commentary as long as they are in agreement with Hegel's published texts. There is little evidence, however, that they contain the “true” Hegel.
- 3 By this integration, however, they are profoundly transformed (cf. below p. 93). The “immanent necessity” of the philosophy of nature is determined by the concept (E §246).
- 4 In the *Encyclopedia* Hegel criticizes theories of the primacy of nature's eternal laws: Not only is human history also governed by rational necessity – in accordance with the religious conviction of divine providence. But the “spiritual arbitrariness” of the human will, even if proceeding to evil deeds, is still “infinitely higher ... because what thus errs, is still spirit” (E §248; see EO §194).
- 5 Pinkard (2012a); cf. below p. 94 f.
- 6 For Hegel, as for great parts of the tradition from late antiquity to the renaissance, there is no fundamental opposition between the Aristotelian and Platonic heritage – as his very concept of spirit proves (Halfwassen 1999). In the following I use “Neo-platonic” in a rather broad sense focusing on the upward ontological scale from matter to spirit.
- 7 In this respect Hegel calls it “good” (see SL 684/GW 12:187: “gut von Natur”) – but only once its inadequacy to its own destination is overcome by spirit's theoretical and practical appropriation.
- 8 Regarding the epistemological, ontological and teleological concept of “truth” in Hegel, see Horstmann (1990), Halbig (2004), and Pippin (2018).
- 9 Hegel differentiates between sorts of matter according to their relation to laws, organization and movement. (See E §§271ff.) According to the lecture notes 1823/24 (Griesheim) he distinguishes between unfree and free matter, the first being moved by external forces, the second self-moving and expressing its own laws, as in the celestial bodies, in line with the Greek tradition (see GW 24, 1:496ff.). The “free natural life” of these bodies, including the earth as a living organism, is not to be explained by the forces of gravity or electricity “in our living room” (GW 24, 1:497).
- 10 The process of digestion in animals is neither mechanical nor chemical, because both processes lack the “living absolute unity” (EO §285). The assimilation of

the inanimate material to the life-process is the “beginning of idealism” (EO §283R GW 13, 164). For a defense of Hegel’s teleology cf. Kreines (2008 a, b)

- 11 “Für die gemeine Wahrnehmung vorhanden” (SL 687/GW 12:190; see also SL 740/GW 12:241 and E §348).
- 12 Compare the analogous function of the voluntary decision as “*Urkeim*” of self-individuation (“containing in itself all purposes and generating them only from itself”) on the level of objective spirit (PR §12).
- 13 The dependence of the animal on external conditions reduces the “concept” implying necessary differences to a “type” with an incomplete series of variations (see EO §293; E §368). They are, however, related to the necessary moments of natural life and animal organism, which down to the triad of the neuro-, blood- and digestive systems (EO §278) follows the structure of conceptual differentiation.
- 14 The freedom of the sovereign will over and within his drives is according to E §§479ff. the unity of happiness and rational freedom in this world – not in a supra-sensible highest good. According to Pinkard, however, for Hegel “a full way of being with oneself” is not accessible in the modern world (Pinkard 2012c: 174).
- 15 See (PR §4): “the system of rights is the realm of actualized freedom, the world of spirit from within itself as a second nature”.
- 16 Although Hegel criticizes the categories of Roman law and their Kantian transformation (PR §40), he sticks to the alternative between *persona* and *res* (PR §41). Only the human body (as immediate existence of the will), children and women are outside this divide. The latter, however, are not fully eligible as private property owners (see Hegel’s marginal note in GW 14, 2:399). They participate in the personality and common property of the family (PR §158).
- 17 “Human Being master over everything in nature ... it has no soul for itself, no self-purpose” (GW 24:191). See also a lecture note in Hotho (1823/1823): “To appropriate means to manifest the sovereignty (*Hoheit*) of the will against the *res* ... I give to the living being another soul than it had – I give it my soul” (GW 26, 2:816). The internal normativity of nature (cf. note 48 below) is of no relevance for legal relations.
- 18 “What is external for the free spirit ... is external in and for itself (*an sich*), and for this reason [!] the definition (*Begriffsbestimmung*) of the concept of nature is that it is the *external in itself*” (PR §42). See lecture notes Griesheim (1824/25): “It is a principle that how something relates to spirit, it is in itself” (GW 26, 3:119).
- 19 “If the human being turns the things into his own [sc. property] he gives them the highest determination to which they are capable ... human freedom is higher and anything other is only material if he wills it so” (GW 26, 3:1121).
- 20 Only “elementary” indivisible things like air or water, not land, pose natural limits to private – but not common – property (PR §46).
- 21 These measures, however, may not abolish the principles of private property and freedom of trade. Regarding Hegel’s anticipation of the welfare-state, see Siep (2017: 519–22).
- 22 See (PR §181). Although certainly not in the sense of the 19th German nationalists (see Alan W. Woods note in Hegel 2014, p. 473). The historical epochs of his world historical approach are characterized by a group of states (like the Greco-Roman or Christian European states) shaped by similar world views and constitutional principles (see PR §§ 355–60).
- 23 Cf. PR §209R. Human rights in this sense, however, might not include full citizen’s rights (PR §270, GW 14, 1, 217; Siep 2015: 50, 174).
- 24 Compare (PR §166) with (E §397) regarding the essential characteristics of male and female and their ethical transformation in the family.

- 25 Hegel includes the churches among the affirming and acknowledging institutions of marriage (PR §164 “a further determination not to be elaborated here”).
- 26 Brandom (2019: 485).
- 27 Different from Kant, the decision about war belongs exclusively to the authority of the prince (PR §329).
- 28 Compare the discussion of the state as a manifestation of the idea in the final chapter of the *Science of Logic* (SL 672ff./GW 12:175f). Even in the “worst state” the individuals “still obey the power of a concept” (“or else they must needs perish”). Singular states are finite in time, but not the institution – which is in turn realized only in singular states.
- 29 From early on the idea of a self-purposive public life, oriented by the Greek “polis”, is Hegel’s way of correcting the spirit of modernity, the contractual association of private individuals. Despite his metaphysical Neo-Platonism, his political philosophy after the early Jena writings (1802) becomes ever more Aristotelian (see Siep 2010b). The identification of the “highest moment” of the ethical state with (external) sovereignty, however, is a modern European element.
- 30 For my reading of the relevant texts and the modern questions of just war theory (and the “responsibility to protect”) see Siep (2015: 67–69, 190). Compare, however, the interpretation of Alan Wood: “What makes the state an end in itself is that it systematically harmonizes the personal right, subjective freedom and happiness of its individual members” (Wood 2014: xxvi).
- 31 Regarding the historical and philosophical context of Hegel’s transferring the Aristotelian attributes of the divine “unmoved mover” to the modern constitutional state (as type) see (Siep 2015). Among Hegel’s socio-psychological reasons is the strengthening of state loyalty against religious devotion and economic egoism (Siep 2015: 137, 229).
- 32 It seems that since his Berne remarks about Republican immortality (GW 1:368) this remains Hegel’s view of immortality in contrast to Kantian or to “other-worldly” immortality. Other forms of (inner-worldly) infinitude can be achieved in absolute spirit (religious community or philosophical thought). None of them relativizes the self-purposive unification (PR §258) of the ethical state. See the “true reconciliation” between state, religion, and science (philosophy) (PR §360 and E §552 (state and philosophy as “liberation” of religious spirituality into the ethical world).
- 33 The ontological background is, of course, the tradition of the philosophy of unification (*Vereinigungs-Philosophie*) dominant already in Hegel’s early writings (Henrich 2010). To be sure, it is not Neo-platonic in the strict sense of Plotinus, but rather of later receptions.
- 34 My translation; the wording remains the same in the third edition (E §247). This double perspective on nature is anticipated in Fichte’s “Vocation of Man” (1800) where the first book contains the perspective from the mechanical relations and the third regards nature as a manifestation of divine spiritual life.
- 35 In the section on the absolute idea the *Science of Logic* interprets this simple and concentrated unity as “personality.” As to the plausibility of different interpretations of this conception see (Siep 2018: 754–79).
- 36 In the third edition (E §247), Hegel adds to external against the idea “(and against the subjective existence of it, the spirit).” Regarding the different meanings of “Anderssein,” “Äußerlichkeit,” “Außereinander,” etc. in Hegel’s philosophy of nature see (Neuser 2000: 142–50, 197). Neuser emphasizes the relevance of Hegel’s transformation of Neoplatonism for modern mathematics, physics and information theory; see (Neuser 2000, 1994).
- 37 In the *Science of Logic*, Hegel speaks of “admiration” (SL 536/GW 12:39) for nature’s manifoldness and diversity. But it is without concept and belongs to the “side of *nothingness*” of the idea.

- 38 E §§7, 12–8, 38, 246; EO §10.
- 39 Regarding the limits of mathematics see (SL 706, 725–6/GW 12:208, 227).
- 40 “What is true in a science, is true because of and due to philosophy” (EO §10). Philosophy as the highest and “true-making” science, concerned with the most valuable and “real” objects, is a Platonic heritage as well.
- 41 That is only for us, not in truth (alluding at the Aristotelian *pros hemas*). The structural deficit of nature may be understood as the consequence of a monistic ontology of subjectivity (in Hegel’s sense). See (Horstmann 1990: 80).
- 42 Of course, the ontological hierarchy and instrumental “destination” does not mean any “annihilation” of matter or nature. The student notes use the expression “reality in its ordinary sense” (GW 25, 1:201). The independent reality of nature, however, is perfectly compatible with the teleological destination to become the medium of spirit’s manifestation.
- 43 This direction can be ascribed to the post-Hegelian turns of both Heidegger and Adorno (see Guzzoni 1995).
- 44 See McDowell (1996). There is, of course, a host of philosophical problems regarding structures, information, material incompatibilities, dispositions etc. independent of their conscious articulation or communication.
- 45 Since natural history includes that of the human cultural being (“second nature”) it is not to be equated with biological evolution. For a modern view of the value of natural history see Holland (1994).
- 46 See Brandom (1994); Pinkard (2012b). For the “teleological inferentialism” of the *Philosophy of Right* see Moyer (2021: 18–25).
- 47 See Pippin (2018). Of course, other conceptions of scales are not excluded, for instance in emergentist epistemologies (Collier 1994: 113) or normative scaling of the respect due to inorganic, living and spiritual beings.
- 48 See Merker (2004: 153ff.) (“natural form of normativity”). For Hegel’s ambivalence regarding man’s technical relation to nature see Siep (2010a).
- 49 The wording of §1 of the German constitution of 1949 following the 1948 UN-declaration of human rights – a result of global experiences with totalitarianism and colonialism.
- 50 The different uses of the expression “Freilassen” or “frei entlassen” for the relation between spirit and nature used by Hegel and in the lecture notes for (subjective) theoretical (GW 24, 1:479) and absolute spirit (unidentified note in GW 25, 2:941) do not correspond to this symmetric recognition. Neither the theoretical nor the practical relation of spirit to nature is a “giving free” of nature in analogy to interpersonal love or respect.
- 51 Regarding the problems of first and second nature within man see Pinkard (2012d: 184).
- 52 See Savulescu and Persson (2012).

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Part 2

From Formal Right to the Idea of Life



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5 The Value of a Right

Status and Equivalence in Hegel's *Philosophy of Right*

Dean Moyar

There is something quixotic about questioning the value of individual rights. “Are individual rights valuable?” might appeal to philosophers, but most people would say “of course” and suspect that there is something unsound in the questioner’s beliefs. If you value your life, your liberty, your happiness, you *just do* by extension value rights as high caliber claims *to protect* life, liberty, and the pursuit of happiness. So too it seems that your very status as a rights-bearer entails your value, and that questioning the value of rights is tantamount to questioning the value of human beings. In modern liberal societies, that value is a fundamental and unconditioned truth, and the rights flowing from that value are similarly basic and inalienable. And yet, there are fundamental questions of justice that require us to think about the value of specific rights to specific persons, even to the point of questioning whether a right has any value at all for a particular person. While it may be impossible (and undesirable) to question the value of rights entirely, specific inquiry into the extent to which a right is valuable is perfectly legitimate. We can and should ask, for example, about the value of the right to property to someone who has no property. The assurance that each person has an equal right to property rings hollow when many have no property at all. We need a way to think about the justice of rights claims in the actual world rather than blithely relying on an equal unconditional status for all.

A central dynamic in Hegel’s *Philosophy of Right* is the interplay between unconditional rights and their modes of expression in the world. Hegel is worried by a thought about the absoluteness of right that is endorsed by his two great predecessors, Kant and Fichte. They both endorse the idea embodied in the slogan “*fiat iustitia pereat mundus*,” “Let justice be done, even if the world should perish.”¹ Hegel aims to specify an ethical world in which upholding rights and justice does not have the consequence of the world perishing. This means deriving ways to think of the value of specific rights so that they can mutually limit each other and so that their value for individuals can be specified within a holistic framework.

Based on a theory of the action of a free will, Hegel’s conception of rights ranges from abstract rights of personhood to moral rights of welfare to the more specific rights that one has as a family member, worker, and

citizen. These are statuses that are secured through mutual recognition, the normative intersubjectivity that has received much attention in the recent literature.² Less well known and understood is the *equivalence* that informs each level of right (how each status is expressed) and that comes into play at the transitions between the various status-based levels of right.³ The equivalence claims rely explicitly on conceptions of value, on universals that enable the comparisons that must be made for justice within the right to be possible. Without these conceptions of value and their comparisons, the unconditional force of an unconditional right tends to fuel the inequality and the division of society through differential access to contexts of value. Without a social order that sustains faith in equitable contexts of value, the insistence on right is self-defeating because the conditions for the expression of rights are nullified.

5.1 Status and Equivalence Claims in Modern Right

My contrast between status claims and equivalence claims is related to, but distinct from, the well-known thesis that modern history has witnessed a shift from status to contract. Typically this contrast is drawn between an *unchosen traditional* status as a family member and the *voluntary* relationship of entering into a contract. Hegel's antipathy to social contract theories is well known, and there are elements of his view of Ethical Life that do seem like a throwback to the traditional status model. But those elements are part of a broader story about status that includes the prototypical *modern* statuses of rights-bearer and subjective will. The broader conception relates to the traditional notion of status in that it is relatively fixed by the social order in which the status claims hold. This sense of social dependence is captured by Terry Pinkard when he writes,

This self-originating status of 'individual' is a social status sustained in a structure in which agents recognize each other as entitled to that status and in which agents take this entitlement to be an unargued premise of the social order.

(Pinkard 2012: 136)

Being recognized as a person or a rights-bearer is constitutive of agency in the modern social order. Pinkard continues with a pivotal question: "How, then, can agents sustain a kind of mutual recognition of a status that looks as if it asserts itself as not being dependent on any kind of recognition as a status at all?" (Pinkard 2012: 136). Pinkard's question of *sustaining* a form of mutual recognition concerns what must be done if the social order that underlies individual status is not to atrophy. Without some kind of activity by individuals and institutions of right, a status that now seems like a basic fact could be brought into question, and the "unargued premise" would no longer be something that could be taken for granted. As Pinkard suggests, there is

a problem with rights conceived as essential to being an individual: the fundamentality of the status gets in the way of cultivating its sustainability. The question of sustainability can barely be asked because to do so is to highlight the contingency of the status.

Advocates of voluntarist contractualism need not simply reject such social statuses as central to the normative order. Their answer to Pinkard's question is that rights are sustained in so far as they are attached not to fixed unchosen social relations, but rather to relations that subjects have freely undertaken. The voluntariness or consensual nature of the relations is supposed to ensure that the statuses are sustained. Yet to the critic of social contract theory, the voluntary consent is either a delusion or a diversion from the main issue. It is a delusion because we are born into societies and never occupy the detached space from which voluntariness is supposed to gain its force. It is a diversion because there must be *good reasons* to consent, and those reasons have to be anchored in the status at issue, in the kind of life that the status affords us. We need a determinate answer to the question of how the granting of a status provides agents with reasons to consent to or identify with the rights.

Hegel is of course skeptical of the generation of obligation through voluntary choice, yet he does embrace a surprising amount of the modern contractualist picture. His own account is based on the logic of the free will, where each status that grounds a right is itself grounded in the free will and includes a moment of choice. But for Hegel, the question of what can sustain the attachment to rights is a question of how the status is expressed and affirmed through the exercise of the right. If the terms of that actualization can be sustained by the *mutual recognition* of individuals in *determinate exercise* of the right, that will affirm and sustain the status itself.

I argue that *equivalence claims*, and the *value* that is the medium of such equivalence, are the crucial mediating elements between basic status and the sustained recognition of rights. An intuitive idea behind the contract is that one transfers something to another in exchange for something of equal value. In a real estate transaction, one typically gives a certain amount of money to someone in exchange for house and land whose value is equivalent to that much money. Once the terms of a contract are set, one has a right to expect that items of equivalent value are being exchanged. Equivalence in my sense is not restricted to, or even modeled on such contractual exchange (even though the contract is an important instance). Equivalence is a much broader, and more fruitful, element of right that enables a dynamic relation between basic status claims and the world in which they are realized.

The basic relation of *status* and *equivalence* is similar to the relation of *equality* and *equity* that has received a great deal of attention in recent public discussions of justice. Equality of rights is typically associated with equality of status. Few people would deny the status of personhood and rights-bearer to an adult citizen of the USA. But critics of such formal equality (including formal equality of opportunity) note that what is not denied in principle is systematically denied in practice. They point to the lack of actual progress in

achieving equal prosperity and actual equality of opportunity. They argue for an *equity* standard instead, which means attending to specific circumstances and aiming for just *outcomes* by allocating more resources to those who are not in a position to benefit from rights they have (but cannot exercise). Hegel shares the view that mere formal recognition of status and formal opportunity is only a starting point for justice. The real work comes in the actions and institutions that realize right. Hegel's conception of *equivalence* shares with *equity* the idea that injustice occurs when right cannot be *realized* because the conditions that allow the adequate expression of the right are not satisfied. But equivalence in this Hegelian sense is also not a claim for equal outcomes for all regardless of one's actions. The basic idea is a thinner one than equity: the conditions of a status right's expression should be determined such that the same effort by one agent will be accorded the same value as the effort of any other agent. Part of this notion is that everyone with such a right must be in a position to partake of a right's expressive value to some extent. Yet the account remains relatively thin in that it depends on the effort by the agent and guarantees outcomes only on the basis of that effort. It is an open question for Hegel's dialectic and system whether such a thin starting point can generate more substantive conclusions of justice.

My aim in this essay is to show that the status claims theorized in Hegel's *Philosophy of Right* successfully structure a system of justice largely because of the equivalence claims nested within them. The trouble with status claims is that they seem to assign fixed roles to individuals and thus do not seem to be good vehicles for the demands of actual justice. Though personality and the subjective will seem thin enough to avoid the problems of fixed social status conceptions, they too run the risk of reification and distortion in the absence of equivalence claims. It may sound odd to say that one could object to having the status of personhood (in the sense of someone capable of possessing basic rights), but the issue is not the possession of the status on its own. Rather, the issue is that the granting of such a status can turn into a kind of excuse for complacency and injustice.⁴ The problem comes out in a typical thought of the formal egalitarian: "You have a right to property, so go get some instead of complaining about how much more other people have." The legal codification of such rights for everyone can come to seem like mere cover for the refusal to guarantee meaningful and equitable access to the use of such rights.

In this paper, I make my case by detailing a number of the statuses and equivalences in the *Philosophy of Right*. I begin with a general statement of a status claim:

Status Claim: An individual has a certain capacity that is recognized by others as entitling the individual to a set of rights claims, understood as a set of strict prohibitions on interference with the exercise of those capacities. The individual also must recognize the same rights of the others whose recognition secures the individual's right.

Personality and conscience, for example, represent capacities that there are rights against violating. One has rights of personality and rights of conscience that also entail that one respect the same rights of others. That primarily means *not* violating the personality and conscience of others.

These status rights involve the exercise of the relevant capacities in an expressive medium, a social space that is defined in part by those very rights. The exercise of a right typically involves claims that go beyond the mere prohibition of interference. Actions relate to the capacities and actions of others. In that relation, there is a claim (stemming from the status) that my determinate expressions of my status right should be equivalent in value to your expressions of your (identical) status. No one's actions count for more, or are worth more, than the actions by others.

Equivalence Claim: An action that is an exercise of a status right has a determinate purpose through which the right is expressed. The individual has a positive claim to the recognition of their purposive activity as equivalent to the same purposive activity of others. These equivalence claims typically are adjudicated in terms of sameness of value.

The notion of expression here is not mysterious. You express a right to property when you take ownership of a piece of property. You express a right to welfare when you undertake an action on your interests. The recognition of activity as equivalent takes many forms, including (as already mentioned) the transfer of property in a contract. One has a claim that one's property will be treated as equivalent in value to another's property, where that equivalence is determined through a common measure of value. My property should not be deemed of lesser value than yours because of who I am. A more pressing case is that of labor or work. My *labor* should be recognized as having value equivalent to another's labor. Of course, how this value is determined and the role of the market therein are central questions for any account of justice (more on this in the next section). So, too, deciding what labor is "the same" beyond literal identity is an exceedingly thorny question. Later I will explain how this relation induces a shift to a new status (which in turn has new equivalence claims), thus explaining in part Hegel's process of deriving the content of right from the instabilities of its original statuses.

My analysis of status and equivalence would seem to line up with two conceptions of value and two ways to think of the value of a right: the unconditioned value of a status such as personality, on the one hand, and the conditioned exchangeable value of property and money, on the other. This split makes it seem that with equivalence claims I am recommending that we be willing to trade off the unconditional value of persons in the service of efficiency in maximizing the value of right. On this view you have to sacrifice the right in order to preserve it, and that would seem more like a *reductio ad absurdum* of equivalence than an argument in favor of it. Yet this objection confuses the finite means of realizing a right with the violation of

an abstract right. An abstract right is limited in a sense by its determinate expression. But that limitation just is the right's realization. Hegel thus everywhere insists that the abstract unconditioned should not be set over against finite modes of realization in the way implied by the trade-off objection. It is a hallmark of Hegel's approach to practical philosophy (and metaphysics generally) that the infinite and finite are thoroughly intertwined. What Hegel calls true infinity is a relation in which the finite is incorporated. So it is not that the unconditioned (infinite) cannot include any conditions, but rather the unconditioned is that which realizes itself through the conditions that are appropriate to it.

My argument is that status and equivalence claims are interdependent in Hegel's account of justice. Justice in Hegel's view is largely a matter of *expressive adequacy*. At the overall level, the question is, what configuration of rights is adequate for the free will? At every level of right he asks, how is the status specific to that right adequately expressed? My focus on equivalence claims brings out the more dynamic conception of universality that underlies Hegel's substantive account of justice as well as his method in the *Philosophy of Right*. Equivalence is the key to understanding the consequences of rights and how justice can be achieved by a system of institutions. The idea of a bare status of personhood with an attached enumeration of rights leaves a glaring gap between the point-like self and the extent of the realization of actions and institutions in which rights are exercised. Hegel appears to endorse this gap when he opens "Abstract Right" with an account of prohibitions, but his whole account turns quickly towards, and stays with, the problem of how rights are adequately expressed.

5.2 Personality and the Equivalence Claims of Abstract Right

The opening parts of the *Philosophy of Right* are characterized by an insistence on the free will and personality that generate the status claims of right.⁵ I do not dwell on free will in my argument here because doing so would involve a long detour through "Subjective Spirit," but also because each of the main statuses in the first two sections of the *Philosophy of Right* are clear versions of free will, and so we will pick up its structure along the way. The introduction to "Abstract Right" focuses on personality as the basic status of right. With the structure of personality and its instantiation in an individual *person*, Pinkard's issue of a status-that-is-not-supposed-to-be-a-status (not supposed to be a social achievement) comes immediately to the fore. As both immediate and abstract, personality involves the will's capacity for abstract thinking *and* takes the individual in their immediate natural condition. The capacity for thinking or self-consciousness is a "*simple* reference to itself" that is a "formal universality" (PR §35). Hegel calls this status a contradiction because it presents the individual as abstractly infinite and yet determined in their finitude. The finitude or particularity is where positive content would have

to originate, yet the concept of personality (and the domain of abstract right) has to take the person as a bare universal, at least initially, and the content of the right can only be abstract and negative. As discussed in the previous section, the defining feature of a status claim is that it is negative: do not violate my status. The commandment of right, "Be a person and respect others as persons" (PR §36), thus reduces to a set of prohibitions.

If qua personality I act in the world, does that act have the same rights claim as the original status claim? Should my actions be treated according to the same prohibitory logic as the basic status claim?

The answer to those questions in Hegel's initial doctrine of private property is an emphatic yes, for Hegel argues that property is simply an extension of my status as a person, a bearer of free will. He denies that there is an instrumental justification of property, though he does hold that in property the free will overcomes its mere subjectivity in taking on an objective form. There is something gained by the subject in the fact of embodiment itself, in the way that the activity of ownership brings stability to the otherwise formless free will. But it is not for the sake of this transformation that property exists – if it were, we could think up other ways of transforming the self (e.g., Hegel's own case of servitude) that serves the same purpose.⁶ The right to private property and personality are not analytically connected, but the expressive connection of personality and property is so tight that property claims appear to be simple embodied extensions of status claims.

While it thus appears to be the case that property claims (rights) are unconditional in the same way that the status of personality is unconditional, that is in fact only the beginning of the story. At the close of the introduction to "Abstract Right" he indicates how bare status claims develop. Hegel introduces a teleological element into personality, writing that it "is that which acts to suspend [*aufzuheben*] this limitation and to give itself reality – or, what amounts to the same thing, to posit that existence [*Dasein*] as its own" (PR §39). So while there is unquestionably a certain status that a person has, through the capacity for free will that status enters into the world of other persons and objects. Hegel is talking here about the actual conditions of the person's expression (or activation qua individual). Those conditions are what a system of justice, or right in its full development, is supposed to secure. This teleological element could just make the problem of the person's unconditional status worse, in that it could set up the person to extend their dominion over the earth and the institutions. But that is not Hegel's intention, for the goal is to develop the formal rights themselves into structures that implicate other agents and more complex relations with the world.

This teleological thesis allows us to put some pressure on Hegel's thesis that the issue of equality of property cannot even arise intelligibly here at this basic level. He holds that we are all equally persons, with that same formal status, and that any further equality or inequality comes up only when we enter the realm of particular welfare (which is assigned to a later and apparently subordinate stage in the account). Hegel holds that justice only requires that

everyone has *some* property, not that they have an equal amount of property. The argument for equality is an error of the “abstract identity of the understanding” that cannot see that equality of persons excludes all particularity. The domain of particularity is not amenable to abstract equality because it “encompasses not only the external contingency of nature, but also the whole extent of spiritual nature in its indefinite particularity and differentiation and in its organically developed reason” (§49R). Yet even if we accept that the abstract capacity of personality that is the basis of property claims is not the place to look for actual equality, there are still plenty of aspects of property ownership that raise questions of justice. We can still inquire into how property is acquired and maintained, what counts as a legitimate transfer of property, and how to think of the property we have in our own bodies and minds. To develop determinate claims about justice, we need to find a space between sheer abstract equal status and the full equality of goods, a space of normative requirements that shows how the logic of abstract right itself bends towards justice for all.

This space is just what Hegel carves out in the discussions of the use, value, and alienation of property. He develops *equivalence claims* that serve to enable the expression of the *status claims* of personality in complex ownership relations to things, and eventually in explicit relations between different persons. He thereby lays the basis for a transformation of abstract rights into more concrete moral and social rights. Hegel’s discussion of use takes off from the familiar point that something becomes mine when I *form* it, taking possession by transforming it into something I have done. The initial abstract “mine” of property ownership is thus expressed in forming and use in the service of particular needs, a move that stands in some tension with Hegel’s denial of particularity in the earlier discussion of equality. He writes, “*Use* is the realization of my need through the alteration, destruction, or consumption of the thing, whose selfless nature is thereby revealed and which thus fulfils its destiny” (PR §59). He is quick to caution that this does not mean that one forfeits property when one is not using something, since it is the will of the owner (rather than actual use) that is fundamental to the property relation (PR §59R). But the thesis of use does change the nature of property in that it expands the activity of the will that defines what property can be. He writes,

Since the substance of the thing [*Sache*] for itself, which is my property, is its externality, i.e. its non-substantiality – for in relation to me, it is not an end in itself (see §42) – and since this realized externality is the use or employment to which I subject it, it follows that *the whole use* or employment of it is *the thing in its entirety*.

(PR §61)

The use relation to property is a concrete relation between the world and the person’s needs, but use also opens property to more ideal forms in so far as needs themselves are amenable to comparison.

The introduction of value in PR §63 represents a dramatic opening to the equivalence claims that loom large at every subsequent stage of right. Value itself comes into being as a way of thinking about the equivalence of different needs on a more general scale of need. Hegel in fact offers a double equivalence or “comparability” here: first, in the equivalence of specific needs to each other and thus as part of a general measure of need (“the specific need ... is comparable in its particularity with other needs”), and second in that “the thing is also comparable with things which serve other needs” (PR §63). Together these two comparisons give us a way to render property equivalent, for we now have a standard (in the needs) that allows for sameness even when the property items are different in kind. The thesis about value is not a minor side point in the overall treatment of property. Rather, this is a new “*universality ... the thing's value*, in which its true substantiality is *determined* and becomes an object of consciousness” (PR §63). Property rights thus become claims to value, where value is determined by the equivalence of need and the equivalence of things in serving those needs. By introducing value as tied essentially to needs, Hegel keeps front and center the use-value and the needs as the measure of value.⁷ It is worth stressing that Hegel could have gone a different way here, namely by defining value in some more abstract terms, or by going directly from use to the exchange relationship in a contract.

Let us pause a moment to consider the consequences of this shift from the abstract status of personality to the expression of right and claims of equivalence. Once equivalence claims are introduced, treating others justly is no longer merely a matter of non-interference. Individuals now have to relate to each other's property as expressions of value, and thus at least potentially in terms of the basic needs that we all share. The question of the source of property is no longer one of just physical taking, but of a universal – value – that is the same for all persons. This result is still quite formal, yet its consequences are profound. With a quantitative element in play, equivalence also implies a conception of *fairness* in property. You treat me fairly when you treat my property as equivalent in value (on the same scale of value) as yours. The claims here are still quite abstract, but the concrete human being is now in view, and the bare status of personality is thereby linked to the individual as a source of value. So, too, a number of questions about the nature of *work* now arise, questions whose consequences for a theory of justice ramify beyond the initial conceptual points.

That Hegel himself was not sure how to deal with these consequences is evident from the instability of his treatment of the alienation of property, which he reworked when he lectured in subsequent years on the *Philosophy of Right*. Alienation in this sense is the moment of putting property into a form that can be transferred to another. It is a precondition of a contract but lacks the full mutuality and formality of a contractual relation. Much of the text of “Alienation” in the *Philosophy of Right* is taken up with the question of the inalienability of the status of personality. This shift back to status has the effect in the published text of blunting the concept of value introduced

in the “Use” section. In the 1824/1825 lectures, by contrast, Hegel actually changes the presentation to put value in “Alienation” and thereby make the whole “Alienation” section about equivalence and the production of value.⁸

In the pivotal section in the published text, the value at issue is that involved in alienating “*my particular physical and mental skills and active capabilities*” (PR §67). Hegel stresses the legitimacy of *limited* alienation and the illegitimacy of *total* alienation of those capacities. Total alienation would be the alienation of one’s status as a free being. The lectures are highly illuminating in that they take up the issue more directly of how alienating one’s capacities is an activity *productive* of value. In this activity, I “make my interiority objective to my spirit” (GW 26:1150). The question of equivalence then becomes how to think of the equivalent value for equivalent work, or simply the question of *the standard of value for labor*. The key equivalence claim of equal pay for each work thus comes to the fore.

Hegel considers in particular the cases of artists and writers who produce works of value, and what kind of claims they can make for compensation for their work. He struggles to articulate any clear criteria for the value of various kinds of work, and yet we see enough in this account to understand why the ownership of the means of production of value is such a central topic in later political thought. That is the site where concrete human activity meets property rights and becomes the kind of claim – an equivalence claim – that is a matter of justice.

The unsatisfyingly vague conditions of property alienation give way to Hegel’s account of explicit recognition and agreement in contract. Contract itself is the best-known version of an equivalence relation, for a contract typically involves the exchange of one item for another item of equal value. The relationship, grounded on the status of personality that each party brings to the contract, only works because of the equivalence claim through which each can both give up and retain their property at the same time (PR §77). For Hegel, the contractual relationship is too thin to be the model for the political bond. This thinness is mirrored in the episodic nature of the agreement on the equivalence of value. There should be an equivalence through human needs as a common standard, yet Hegel does not appear to put much stock in attempts – such as Fichte’s “bread theory” of value – to capture basic equivalence through a consumable commodity.⁹

The shallowness of the contract is reflected in the fact that there is nothing in the contract itself to guarantee that the parties to the contract are acting in good faith. Their wills are only bound by a single point of commerce, and the equivalence of the values is only as good as the knowledge and goodwill of the parties involved. Hegel thus sees contract as devolving into “wrong” and “crime,” including the deception of presenting something as more valuable than it is (PR §88).

For our purposes, the most important part of the ending of “Abstract Right” is the nature and consequences of the equivalence claims involved in *punishment*. Hegel’s basic account of punishment is *retributivist*, which leads him to see the punishment implied by the criminal will’s act. He emphasizes

the *status* of free will in claiming that we do honor to the criminal in punishing them (PR §100). The harm of punishment should be equivalent to the harm of the crime. But since we do not literally take an eye for an eye, we must have a standard of value with which to equalize the harm of the crime and the amount of the punishment (e.g., the amount of jail time). I, the criminal, can claim that my punishment should “fit” my crime, and be of equal (negative) value to the harm I caused (PR §101).

The difficulty in locating an equivalence of value for punishment from the resources of “Abstract Right” is a driving factor in the transition to “Morality.” The transition is from a domain based on the abstract status of personhood to a domain based on the more concretely universal status of the moral will. The transition highlights the way in which equivalence claims are both outgrowths of status claims and the dynamic sites where those statuses show their limitations. In Hegel’s diagnosis of the problem with punishment, the issue is that the only will available to determine and carry out the punishment is the very will that was injured. The expressive limits of a status domain of right become evident in the failure of equivalence claims (under that status) to have sustainable criteria. In the case of punishment, though the equivalence claim is and remains important for the full account in Ethical Life (more on this in Section 5.4), at the level of Abstract Right it founders on the inadequacy of the agency entrusted with determining the equivalence. This will aims at vengeance rather than justice. To get to the true perspective of justice we need a will that is universal not just as an abstract personality – the criminal and avenging will develop as unintegrated variants of the same conception – but rather as universal in the aims of its action and as including the particularity of the subjective will. This new status will find expression in new forms of equivalence that lead in the concluding third part of the *Philosophy of Right* to justice in Ethical Life.

5.3 Morality and the Second-Order Equivalence of Rights

The introduction to “Morality” emphasizes the shift in status claims to the specifically modern status of the particular subjective will. Instead of the abstract and empty universality of the personality that underlies right, the subjective will attaches “mine” to an action as a particular being with a particular perspective and set of interests. The characteristic right of this status is “the *right of the subjective will* ... the will can *recognize* something or *be* something only in so far as that thing is *its* own, in so far as the will is present to itself in it as subjectivity” (PR §107). Just as the legalistic “mine” of property possession takes an expressive turn with use and need, so too the legalistic “mine” of action imputation turns to satisfaction and interest as the subjective value terms in the moral domain. The action is mine not only in the sense that its consequences can be imputed to me but also in the sense that it expresses my motives as a particular subject (see Quante 2004 and Alznauer 2015). The appearance of value in “Morality” is puzzling in so far as it stands

for both the intention qua universal and the subject's satisfaction qua particular. But the reference to particularity here is essential, for the specificity of my satisfaction is itself supposed to count as valid. For our theme, this "right of subjective freedom" (PR §124R) is peculiar in that it is supposed to stand outside of the universal and thus does not seem like a good candidate for an equivalence claim. But the subjectivity of value is not simply immediate, and thus is not like the needs of the person in Abstract Right. There is here a dimension of formal freedom or reflection even in our subjective attachments (see Moyar 2021: 163–6). We also do claim that our attachments and satisfactions are equivalent to others, as they must be to be part of a practice of value with others. In their purer forms (such as romantic love) the attachments are opposed to the quantitative, yet they are comprehensible – as the objectivity of subjective value – nonetheless. Put in terms of contemporary metaethics, these are agent-relative values (and reasons) which are communicable and shareable with others.

Because the subject "is reflected into itself and infinite, and consequently also has reference to the universal" (PR §125), the welfare of all is an issue for the moral subject. The introduction of this universal welfare is rather ambiguous, for Hegel both endorses a "positive" relation to the will of others and yet also indicates that this relation could be only instrumental. It does not seem that the individual will necessarily take the welfare of others as their own aim since at this stage in the dialectic the particular and universal are only in relation (rather than unity). Yet even with this qualification, Hegel is making a case here for the equivalence of my welfare and that of others. We can think of it as the point – frequently aligned with consequentialist moral thinking – that each individual counts the same as others. Hegel is not arguing for a strict agent-neutral morality, but he is saying that each of us must acknowledge that our welfare has equal standing. He then worries that we might take this obligation so seriously that we are tempted to violate property rights to serve the welfare of others.

The pivotal move in "Morality" is Hegel's staging of a conflict between abstract property rights and subjective welfare rights. We can see the need for this move by noting that the parallel set-up of Abstract Right and Morality threatens to leave us with two sets of rights and no way to adjudicate between them. Even with an equivalence between different needs in the value of property (and potentially labor), and an equivalence of different subjective interests in welfare value, there does not seem to be a clear way to think of the relation between property rights and welfare rights. One could think that these two types of value are not so different after all since need and welfare seem to be of the same type. But this would be to miss the essential difference between the domains: in abstract right, needs are considered external characteristics of subjects, shared by us all but not including the individual's particular perspective on that need. Welfare, on the other hand, is defined by the subject's particular perspective and particular satisfaction. As a moral subject, I claim the value of my specific life and my specific attachments, whereas in

"Abstract Right" I claim property (whose value depends on need in general) as a person capable of placing my will in external things.

Hegel moves to unite the rights by arguing that because the right of welfare depends upon the abstract right of property, the former cannot be invoked to violate the latter. Welfare has its "substantial basis" (PR §126) in abstract right, and claims of welfare thus cannot justify wrong (violation of Abstract Right) without contradicting their own foundation. A rich landowner has way more than they need while the people in the village are barely getting by, and their common welfare seems to be a basis for expropriating the property to meet the needs of the poor. But in the hands of well-intentioned individuals aiming to do the morally right, such an equivalence would threaten the basis of right in the abstract status of personality. Hegel thus appears to take the side of property against welfare. One might respond, however, that by Hegel's own lights the demands of morality are higher than those of property. Furthermore, if the property is given strict priority over welfare claims then the propertyless are doomed to a downward spiral of dependence and misery.

Hegel himself acknowledges the problem, and his endorsement of property here does not mean that he thinks property claims reign supreme in the normative order. He in fact pushes the case to its extreme in order to move beyond the impasse of these two rights grounded in different status claims. In deriving a "right of necessity," Hegel argues that even though in ordinary cases it is impermissible to violate property rights for the sake of welfare, when one's life is at stake the limited property claim of another can be abrogated. In terms of value, that means that the finite value of someone's property can be overridden by the infinite value of life (PR §127). Denying life its right would be for abstract right to deny its basis in the living free individual. In recognizing this right of necessity, Hegel argues that it shows the contingency of both abstract right and welfare, and thus the need to bring both into a larger conceptual structure (PR §128). On the basis of that conceptual structure, "the Good," and in the full-blown social setting of the State, the demands of welfare do take precedence over property (though exactly how they do so remains a controversial point of interpretation). But it is essential that there be yet another form of agency, and an institutionally grounded status, to adjudicate those claims.

When Hegel introduces "the Good" as the "final purpose of the world" (PR §129), and includes within it the main conceptions of right from earlier in the book, he is introducing a holistic *second-order equivalence* of rights. The thesis of the Good is that every claim of right needs to take into account the other claims of right, not only of the same type but of different types as well (PR §129). Against the Kant-Fichte *pereat mundus* thesis, Hegel argues for no right without welfare: "right is not the good without welfare (*fiat iustitia* should not have *pereat mundus* as its consequence)" (PR §130). Stated thus negatively, this means that no abstract right is valid without the satisfaction of welfare rights. He also holds the converse, namely that there is no welfare without right. More positively, each right or claim includes a demand for the

satisfaction of the other rights or claims. This joint set of requirements holds within an overall purpose, “the Good,” that is an inclusive universal. My suggestion is that we read it like other universal *value* terms as a virtual way of designating the equivalence of more concrete items. In this case, those more concrete items are not concrete property or individual welfare, but rather the early status-based claims in their guise as equivalence claims. It is not the right per se that is compromised when other rights are not satisfied, but rather it is the value of that right that is diminished. The Good is thus the equivalence of equivalences – that in which the value of property and the value of welfare can be brought into relations of equivalence with each other. Hegel is arguing that we need such a conception in order to think through justice as the simultaneous satisfaction of the various status claims.

When the Good is formulated as second-order equivalence, one is naturally led to think that there is some new quantitative measure of value that replaces previous conceptions. After all, the ability to give a quantitative dimension to right was a prime reason to translate status claims into equivalence claims in terms of value. There is zero indication, however, that Hegel thinks that the Good is something that can be quantified or maximized so as to form a quantitative standard of the individual’s duty (e.g., “maximize the Good”). He does stress that the Good at this point is abstract, without determination, and there is no inkling of the Fichtean thought that my duty is what would provide the greatest extension of the good (or freedom) in the world.¹⁰ He holds that the only content of the Good for the individual will is to do right and promote the welfare of all, but he thinks that this just amounts to the empty demands of Kantian universalizable duty. The particularization of the Good within “Morality” falls to individual conscience, a capacity for holistic judgment that each of us exercises in determining how to act on our many, often conflicting commitments. For Hegel, this power to render duties equivalent is both majestic and dangerous, both essential to modern freedom and, in its insistence on its status as absolute, a danger to the social order.

The question at the end of “Morality” is how the Good as a second-order equivalence can be expressed and administered. There is a certain parallel between this point and the end of “Abstract Right.” The criminal and avenging persons, on the one hand, and conscience as evil and judge, on the other, both call forth a new form of agency and a new universal status. Recall that the difficulty with the equivalence of punishment in the avenging will led to the transition to the universal subjective will of morality. The conscience that has become evil and that recognized that fact in the aftermath of its deed recognizes its own insufficiency in determining the specific instances of the good. Conscience claims to find the action that fits the situation, including the equivalence claims of other moral agents to be treated as ends in themselves, but in claiming the exclusive power of moral judgment for itself, the agent shows that what is owed to each cannot be settled primarily by the individual. Those instances can only be determined in contexts of mutual recognition circumscribed by law and administered by institutional agencies.

The subjective assent of the individual cannot be conscience “in opposition to the ethical substantiality” (PR §152), but rather should be one voice among many within a dynamic institution that respects and preserves and expresses our subjectivity (see Moyar 2017).

5.4 The Social Statues of Ethical Life and Institutionalized Equivalency Claims

In the living system of institutions that is “Ethical Life,” there is a systematic interplay of status and equivalence claims that secures the overall conditions of justice.¹¹ There are many different statuses in “Ethical Life,” and it is in these statuses that Hegel seems most in danger of lapsing into pre-modern thinking about the status claims of right. It appears that in Hegel’s view you are just required by virtue of being a husband or wife to fulfill certain duties. Your estate seems to determine the type of work you are obligated to do, and your status claims of citizenship seems to amount to little more than the duty to obey the law set by the monarch, executive class, and industry-dominated legislative assembly. Hegel does try to incorporate at each level an element of “choice” that would bring his view closer to the contract-based rights of the dominant modern tradition. He thinks that modern marriage is typically not arranged marriage, and he holds that the freedom to choose one’s occupation is an important modern right. Yet these nods to choice come across as rather half-hearted, especially in light of his critique of the arbitrary will at other important points in the account. In this section, I argue that the equivalence claims are the innovation that allows Hegel to combine the solidity of the older status-based view with the choice and flexibility characteristic of modern freedom.

One of the major complications in assessing Hegel’s theory of rights is that his broad conception of right encompasses both rights in the narrower sense (that I have focused on throughout) and the seemingly contrasting category of duties (thus my reference to them in the previous paragraph). In Ethical Life he foregrounds the duties that various statuses give the agent as what one owes to others rather than what one can claim from others. In my view, right and duty in Ethical Life are symmetrical: we can treat the duties as what is owed to people (or institutions) with rights. As with rights, one can have a duty determined by a status and expressed through an equivalence relation. One owes activity of a value equal to what others have contributed to the same institution (for example, a husband owes the same work to sustaining the family as a wife).

Hegel takes pains to say that the individual has both rights and duties in Ethical Life, but he seems to muddy the water by *equating* rights and duties. This gives the impression that one’s right simply is to do one’s duty, or even to do what one is told by the police and politicians. But this impression is quite mistaken. Close attention to the key passages (PR §155, E §486R) shows that what Hegel actually has in mind is an *equivalence* of right and duty that refers

to the value that the individual is entitled to receive (the right) in proportion to the value contributed by doing one's duty. The value takes different forms as right and duty, which is why the identity of right and duty is a complex rather than simple one. This equivalence is complicated by the fact that the value at issue is typically specific to the institution in question, and the individual is not merely an individual, but rather a member whose interests do not float free from their institutional identity. But even with these complications, the basic point remains: an individual can expect from the institutions a value equivalent to the value that they put into the institution through their effort. As a norm for the institutions, this means that status claims are only valid, and can only be sustained as valid, if the equivalence claims are satisfied.

We can build on this point by tying it into the issue of mutual recognition within the institutions of Ethical Life. There is a strong case to be made that Hegel's use of mutual recognition is what distinguishes his concrete account of modern ethical life. As a principle that both describes how institutions develop and governs how they ought to function, mutual recognition is a clear alternative to punctual assent accounts of voluntary participation.¹² The problem is that Hegel does not treat recognition in an explicit systematic way in the *Philosophy of Right*. When he does mention recognition in Ethical Life, he seems to align it simply with membership or group status, and that once again makes it unclear how recognition can do real work in securing the justice of the institutions. By linking the mutuality of mutual recognition to equivalence claims, we have a new way to think of how recognition is operationalized in institutionalized contexts. To someone else in my institution, I can say that you do not adequately recognize me to the extent that my contributions are not treated as equivalent in value to yours. This standard falls short of equality of outcomes, since it does not say that everyone's contributions and recognition need to be of the same kind or amount. It can allow for differentiation into specific roles while maintaining an overall justice through equivalence.

The importance of equivalence claims is most obvious in the case of the *value of labor*, where the question is whether equivalence offers a genuine standard against exploitation and domination. As discussed in Section 5.2, Hegel thinks of labor as the production of value through one's own efforts. Hegel does not subscribe to a simple contract account of labor, where the value would be set by market conditions and workers have to agree to terms that can be manipulated by the dominant economic and political powers. He does not give a clear account of how the value of labor should be determined, so we have to fill in the kind of account that his equivalence principle could supply. There is a familiar equivalence slogan from the movement to secure just labor conditions for women: *equal pay for equal work*. In thinking about work within the institution of the family, there is a Hegelian case for the labor of each (adult) member to be given equal value. The value at issue will not be simply material, nor simply measured by time, but will have to take into account the specific value frame of the family (emotional labor is a good

example). In the case of factory work, there is a real question of how equivalence can be set apart from the demands of the market.¹³ The short answer is that unions are needed to restrain market forces. For Hegel, the State should have the role of supporting the regulation of the economic sphere to prevent exploitation. Hegel would clearly not support the idea that every worker at a company gets paid exactly the same. He believes in role differentiation and differing compensation according to different skills. Yet I do think he would be appalled by a CEO making 351 times as much as a typical worker.¹⁴ It makes a mockery of the organization to have such a lack of equivalence between workers and management.

Venturing a little further from Hegel's texts on the economics of work and equivalence, there are resources in Hegelian equivalence to argue for a right to work for a living wage. We saw in Section 5.2 that value for Hegel is closely tied to needs and life. In his affirmation of a right of necessity, he also endorses a right of the bankrupt person to retain their tools, a "benefit of competence" (PR §127R) for people to be able to support themselves. Hegel indicates in his discussion of the public authority in Civil Society that the government has the task of providing for the welfare of its members if they are willing to do their part (PR §§236–8). It is not a huge leap to go from that welfare guarantee to the idea that anyone in Civil Society should have access to a job that lets them translate the value of their talents and efforts into monetary value that would enable a basic standard of living. Civil Society could also of course provide educational opportunities that would enable workers to be trained for the work that is needed. Sensitive to the claims of parents to choose the manner of their children's education, Hegel nonetheless endorses Civil Society's responsibility to provide an education in skills needed to thrive as a worker. Hegel hesitates to endorse public works as an answer to the contingency of the market, and thus stops short of a planned economy and guaranteed outcomes, but he comes close to supporting the right of individuals to work for a living wage.

The important role of equivalence in punishment and Hegel's return to sentencing issues in *Ethical Life* make punishment an excellent practice to examine for understanding the move from the abstract to concrete rights. Part of the case for equivalence claims is that they can accommodate social and historical variability in a way that status claims on their own cannot. The right to punishment is obviously peculiar in that one ought not to put oneself in a position to be punished. But since it has its source in the same status (personality) as rights to property, it is a matter of right that one be punished. Justice in this case is often for us a matter of equal punishment for equal crimes, where we have typically failed along racial lines to uphold that equivalence, and the related ideas that punishment should fit the crime and not be "cruel and unusual." Hegel's main point about punishment in "The Administration of Justice" discussion is to say that the crime is now against society itself rather than an individual. While that seems to make the crime of greater (dis) value, Hegel stresses the stability of modern societies and the correlatively

more lenient punishments (PR §218). This is a clear case of calibrating the equivalence, adjusting what value is assigned to crimes and punishments in light of “the *condition* of civil society” (PR §218R). The discussion shows the “elasticity” of what initially appears as a rigid status designation and a fixed pattern of consequences.

The final domain for thinking about status and equivalence is the domain of the political, the citizen, and the State. I cannot go into all the complexities of Hegel’s view here. I want only to mention one important dimension of the relation that depends on a conception of value equivalence. The securing of individual rights by the State largely takes the form of “protection” (E 486R) and the furthering of the citizens’ interests (PR §261) as an individual and as a member of a family and estate. While Hegel also writes of the fulfillment of one’s universal determination by belonging to the State, he frequently puts the weight of the account on the citizen’s particularity being secured. He then asks the question of what is the equivalent duty that the citizen owes to the State. The equivalence element is baldly manifest in his support of monetary taxes, where he writes:

But as for services to the state, it is only when these are expressed in terms of *money*, as the existing and universal *value* of things and services, that they can be determined justly and at the same time in such a way that the *particular* work and services which the individual can perform are mediated by his own arbitrary will.

(PR §299)

Hegel in fact sounds almost contractualist in his choice-oriented claims about this shift away from requiring some more concrete service to the State (PR §299R). Of course this is not the whole story, for in war one can be required to sacrifice one’s life for the State. Yet his view of the normal case, the manner in which Hegel celebrates the role of money as a universal value in the modern State, is quite striking as a move to “cash out” status claims through equivalence.

I return in conclusion to the question of the value of a right and a lingering uneasiness over assigning a value to a right. It may seem that I am encouraging us (in Hegel’s name) to place a price on our rights as if they were something one could buy or sell. There is indeed something horrible about the neoliberal tendency to think of everything in terms of value-added and attendant cost-benefit analyses (see Anderson 1993). Yet questions of fairness and justice do have a quantitative dimension that is approachable through the idea of value as equivalence. Without the ability to determine adequacy conditions in a (partly) quantitative manner, the move from theorizing justice to making public policy will be stymied. Our goal should not be to make government more like the market through efficiencies and squeezing the labor force, but rather to provide stable conditions for human flourishing within a highly differentiated society. That stability should also not come with a rigid

role differentiation, for essential to modern freedom is the idea of choosing one's own life, shaping the settings one inhabits. For each of us to get what we are owed, we need those settings to be determined by authoritative conceptions of status, but also by an adequate, equivalent, response from the world to our actions within it.

Notes

- 1 AA 8:378-9/PP 345; (AA 6:331-2/PP 473). Fichte comments on this in (SW IV: 358/SE 338).
- 2 See especially Pinkard (1994), Pippin (2008), Siep (2014), and Honneth (2012).
- 3 I go into more detail on this point in Moyar (2021).
- 4 This, I take it, is one of the main lessons of Darby (2009).
- 5 There is some confusion around this basic status because Hegel in other places treats personality and the free will as statuses that have resulted from cultural developments in previous societies. There is thus a temptation to think of this fundamental status as the product of something even more basic. In the *Phenomenology* he portrays the legal person of Roman right as the result of a determinate breakdown in Greek ethical life, and in "Subjective Spirit" he links the free will and right to the Christian conception of each person as the object of God's love. "This Idea came into the world through Christianity, according to which the individual *as such* has an *infinite* value since it is the object and aim of God's love" (E §482R). Hegel's view is that the status of free spirit, or free will, is unconditional for us even though it is historically conditioned by the circumstances of its coming into the world through Christianity. He can say that once the Idea has come into the world, it changes everything, and we do not say that someone has rights because they are a Christian, but simply qua human being (see PR §209R).
- 6 See the discussion in Patten (1999).
- 7 See Houlgate (2017) for a discussion of Hegel's conception of value. See also Moyar (2021).
- 8 See Moyar (2021).
- 9 In his 1800 *The Closed Commercial State*, Fichte proposes bread as the basic unit of value (SW III: 416).
- 10 Whether or not Fichte is in fact a consequentialist in this sense is a matter of some dispute. Kosch (2018) has argued that he is on the basis of his many teleological claims about furthering reason and freedom in the world. Wood (2016) has taken the opposing view on the basis of his strong deontological language and on the basis of passages in which Fichte criticizes the calculating of consequences.
- 11 I go into the nature of the specific institutions at greater length in Moyar (2021). There I frame the entire view in terms of Hegel's conception of life. I abstract from that conception here for simplicity's sake.
- 12 See Siep (2014) and Pinkard (1994) for the *Phenomenology* account, and Honneth (2010, 2012), and Pippin (2008) for the overall account.
- 13 See Herzog (2013) for a good discussion. I go into more detail on this in Chapter 6 of Moyar (2021).
- 14 Economic Policy Institute: <https://www.epi.org/publication/ceo-pay-in-2020/>. Accessed 4/13/2022.

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6 A Withering of the Rose in the Cross of the Present

The Logical Structure of Liberal Capitalism's Destruction of Ethical Life

J.M. Bernstein

The achievement of absolute knowing that concludes the *Phenomenology of Spirit* (PhG) is a moment of singular fulfillment in the history of spirit. But that history is not complete – a moment of world-historical transition is the high note struck in the Preface:

[Spirit is] dissolving bit by bit the structure of its previous world, whose tottering condition is only intimated by its individual symptoms...it is [thus] not difficult to see that our own epoch is a time of birth and a transition to a new period...The gradual process of dissolution, which has not altered the physiognomy of the whole, is interrupted by the break of day, which in a flash and at a single stroke brings into view the structure of a new world.

(PhG ¶11)

I take it that the world that is tottering is the one that was formally overthrown on the night of August 4, 1789, when the National Constituent Assembly abolished feudalism, including the old rules, taxes, and privileges from that era. Conversely, the world that Hegel argues is beginning, flashing up in the midst of the failing world is the one projected by the Declaration of the Rights of Man and Citizen that were adopted later that same month, between August 20th and 26th. Hegel's critique of the Terror entails that the world of freedom that comes into view with the French Revolution is not sufficient on its own to configure the institutional fulfillment of its announcement. The project of the *Phenomenology* is somehow bound-up with this problematic transition from a failing world to a new one emerging but not yet fully present. By the time Hegel begins lecturing on what will become the *Elements of the Philosophy of Right* (PR) he takes that promissory note to have been satisfied.

We are in an analogous moment to the one Hegel announced in the *Phenomenology*, only now the world that is tottering is the very one he thought was beginning in 1807 and institutionally visible and actualizable by 1821.

Liberal capitalism is a failed and failing form of life. Liberal capitalism has unconditionally failed, ethically and practically, because the failure to address climate change entails that it has undermined the necessary conditions for social reproduction and thereby its most basic obligations to future generations. By savaging and mutilating Holocene nature, liberal capitalism has destroyed the conditions of sustainable relations with the natural world that have made human civilization possible (Gardiner 2011; Adeney Thomas, Williams, and Zalasiewicz 2020). Whatever emerges as the successor form of life to liberal capitalism, it will *not* be able to provide an integrally sustainable form of life in which the full satisfaction of present needs is compatible with “the ability of future generations to meet their own needs;” our form of life has borrowed “environmental capital from future generations with no intention or prospect of repaying.”¹ Liberal capitalism is a *failing* form of life because it has failed to address the exorbitant and wholly unjustifiable inequalities both in the North Atlantic civilization itself and between the global north and the global south. Nor has it addressed the modern successor forms to slavery as mechanisms for social exclusion: class, race, gender, and geographic location. Finally, it is a failing form of life because it is losing its ethical authority, and with that losing there comes a withering of its capacity to motivate and orient social practices generally: disaffection, distrust, alienation, anomie – above all due to unjustifiable and titanic inequalities – are politically routine as is the emergence of extremist right-wing political groupings.² Of course, a failed and failing form of life may linger a very long time in its tottering condition.

If liberal capitalism is failed and failing, and it is a deformed version of the ethical form of life analyzed in the *Philosophy of Right*, an unavoidable question arises: to what degree has liberal capitalism departed from or squandered the form of life Hegel thought had emerged by 1820 and, oppositely, to what extent did the form of life he projected contain the seeds of its current failing? Liberal capitalism has (almost³) always departed from the robust conception of ethical life, of meaningful or actual *universality* that Hegel argues to be the rationally necessary ground of the forms of subjectivity and *individuality* that modernity *anthropologically invents* and which liberal capitalism fosters and champions. But from there the corollary question arises as to whether modern individualism – freely rational self-determining conscientious subjectivity – is in actuality compatible with an emphatic social embedding, with being a formation of social reality sufficient for what Hegel intends by his conception of the universality of ethical life.⁴ More simply: is the *actuality* of individualism essential to liberal capitalism –including its neoliberal apotheosis– logically and rationally compatible with the actuality of the formation of ethical life Hegel defends?⁵ Can liberal capitalist civil society and state be rationally joined or will capitalist civil society inevitably instrumentalize the liberal state? Does not Hegel consistently, in both the *Phenomenology of Spirit* and the *Elements of the Philosophy of Right* depreciate or ignore his own wavering insights into the incommensurability of modern subjective freedom and the thick communitarian universality proper to ethical life?

In making out this argument, I require an account of what Hegel means by *singular individuality*, *particularity*, and *universality* in his theory of ethical life. I want to argue that these *logical* concepts first take on and are given their primary *ethical* meaning in the Spirit chapter of the *Phenomenology*. I term the resultant structure of this argument the *ethical syllogism*. Once we have in view the basic parameters of the ethical syllogism (Part One), we can then turn to tracking its fate in liberal capitalism in accordance with the argument of the *Philosophy of Right* (Part Two).

6.1 Part One: The Ethical Syllogism

6.1.1 Hegel's Project

The most persistent and embarrassing puzzle in commentaries on the *Phenomenology of Spirit*, and indeed with respect to Hegel's system generally, is the utter lack of agreement about what it is about. Hegel is evidently not primarily concerned with providing a theory of knowledge, a moral philosophy, a political philosophy, a traditional metaphysical system, a theory of rationality, or a formal or transcendental logic. But if not these, what then? Hegel is concerned with different forms of failure in each of the traditional domains of philosophical inquiry, that is, he cares about skepticism, moral individualism, alienation, domination, egoism, religious illusion, political violence, and moral practices that stipulate what merely "ought" to be, scientism, reductionism, theories postulating empty forms of universality, false conceptions of the logical modalities, and on. How can Hegel be concerned with the full range of the traditional objects of philosophical inquiry but not be concerned with the traditional forms or philosophical genres in which the questions concerning those objects are resolved?

A direct clue to his orienting concern derives from the underlying claim that when a form of consciousness or form of spirit fails the protagonists inhabiting that form suffer a loss of their world, that is, they lose their assurance that they are rationally bound to the world they inhabit; they lose their rational world-bindingness; they become worldless. Hence, when sensuous certainty cannot square its immediate sensory experience with the claim that it is an experience of *this*, it is not just a conception of knowing that fails, although it does, but sensuous certainty's connection to the world in general fails; it loses its world, becoming worldless. The urgency of knowing for the forms of Consciousness – Sensuous Certainty, Perception, and Understanding – is precisely their stance of taking epistemology as first philosophy, which means they take their form of knowing to provide an account of how there is a world at all for persons who take themselves to be essentially knowers, to be bound to the world through knowing and representing it. Analogously, the standpoint of Reason is intended to secure world-bindingness by overcoming the dualism between unchangeable and changeable consciousness that had ruined the unhappy consciousness:

“...it is certain that all actuality is nothing but itself, that its thought itself is immediately actuality, and it is therefore as idealism that it conducts itself in relation to actuality” (PhG ¶232). Hence, each failure of each form of Reason entails that mind and world are not adequately and satisfyingly joined – *world failure*. In *Hegel’s Naturalism* (Pinkard 2012), Terry Pinkard, in elaborating Hegel’s conception of a form of life in terms of a synthesis of Aristotelian ethical sociality and Kantian self-determination, expresses an altogether concordant thesis this way:

[Hegel] has a theory of how humans collectively hold themselves to certain goals that turn out to be “untrue” because they impose what seem to be impossible commitments on themselves. Such commitments express something false, not because the commitments fail to fit the independently established moral facts but because they fail to present a *workable form of life*.

(Pinkard 2012: 117)⁶

Hegel’s orienting philosophical question is not, then, a version of traditional philosophical questions of the what is truth or knowledge or goodness or virtue or beauty variety; rather, under the pressure of something like an Aristotelian concern that even these questions are too abstract, too remote from concrete social life, too tied to possibility against actuality, he poses a new ethical-metaphysical question: What are the minimum necessary conditions for a non-self-defeating form of life? What would make a set of human social practices sustainable over time?

How then does Hegel begin constructing the logical or conceptual terms that could compose the necessary elements for a successful form of life? Suggested earlier in the text, but sotto voce explicitly throughout Chapter 6, “Spirit,” Hegel evaluates the failure of each form of spirit in terms of failing to satisfy one of three of the logical categories of singular individuality, particularity, and universality while satisfying the other two, as if the norm for a satisfactory form of life was what I will call *sylogistic completeness*. And while that thought is certainly part of the account, what gives the developing theory its depth is a demonstration of what *the ethical substance of each of the logical categories* must be.⁷ Hence, rather than leaning on the given syllogistic form – as if we already know why we care about a conception of rationality whose parts are singular, particular, and universal – Hegel is implicitly attempting to provide an account of why syllogistic completeness matters by demonstrating what the ethical content of each of the logical forms contributes to a non-self-defeating form of life. We care about syllogistic completeness because we care about the ethical-social-spiritual content of singularity, particularity, and universality. As we shall see directly, understanding the ethical content of a logical form is not about its standalone logical roles, functions, or powers, but rather how it is already practically implicated in the other two logical forms, and hence how the *ethical content* of each of the logical forms

calls upon and helps secure the actuality of the ethical content of the other two logical forms. Syllogistic completeness does not concern major premises, mediating minor ones, and subsumed conclusions; rather, at the formal level, completeness will invoke conclusions as securing or helping to form premises, singular substances as actualizing universal ones, and revealing all logical forms as being capable of and eventually necessarily mediating between the other two. Syllogistic completeness follows a logic of independence and mutual dependence, not a logic of deduction from foundational premises. But if this is the case, then the stakes of the account of *syllogistic completeness* emphatically *cannot be* about logical deducibility; on the contrary, logical deducibility must become the expression or mere formal presentation of syllogistic completeness. This is why one requires an account of the ethical syllogism to comprehend the argument of the *Philosophy of Right*, rather than drawing on the direct presentation of syllogistic reasoning in the *Science of Logic* (SL 588–624).

6.1.2 The Ethical Content of Singularity, Particularity, and Universality

In this telescoped accounting, I want to survey three pivotal moments in the spirit narrative whereby European sociality, that is, the evolving European spiritual worlds create and become aware of the constitutive conditions for a non-self-defeating form of life.

- i How beautiful Greek ethical life is organized around the logical forms of *universality* and *particularity* while lacking the space in which singular individuality could appear except as acknowledged in the burial rites for the dead.
- ii How the French Revolution provides the sublime demonstration of *universal* and *individual* freedom, of freedom finally being recognized as the condition and ethical substance of universal and singular ethical life; but in this demonstration, spirit represses the necessity of life for self-consciousness, hence the necessity of a social division of labor that generates the *particular* social roles that make social reproduction possible.
- iii How acting conscience invokes a claim for *singular individuality* as law-making and law-affirming, while judging conscience invokes existing *universality* as grounding our life together; what each of acting and judging consciousness eschews is that singularity involves the power of negative; and hence can contribute to universality only through the *mediation* of linguistic-social performance, through *particular* practices of social recognition. The exposition of the development of the meaning of conscience reveals spirit to be mediated by social practices all the way down, as components of an indefinitely evolving self-mediating and self-differentiating whole.⁸ Conscience is where the ethical syllogism is achieved; absolute knowing is the exposition of that achievement.

6.1.3 Absent Singularity

Prior to modernity, prior to the spiritual exposition of human freedom, singular individuality was inadequately recognized; in Greek ethical life, singular individuality was ethically and institutionally recognized only in death, in burial rites for the dead. Central to the spirit narrative is the thesis that modernity raises singular individuality to a valid and necessary logical form by demonstrating it as *productive* of universality; modernity's achievement of syllogistic completeness will turn on its creation-validation of singularity as distinct from particularity.⁹ But this is equally to say that what controls the syllogistic formation of Greek ethical life is *the effective absence of political/ethical singularity*. But this absence of ethical singularity is tied to the thesis that the wrong of Greek ethical life is its grounding of spiritual belonging on natural differences; natural differences are only differences in particularity, in how the social meaning of an individual's life is exhausted in its being the bearer of a social function. Hence, in the very same paragraph in which Hegel argues that the wrong of Greek ethical life is that it excludes some individuals from the *polis* on the grounds of natural difference, or what is the same, one's belonging to a form of life cannot be grounded in nature, he continues his argument by claiming that basing ethical belonging and identity on natural determinations eviscerates the possibility of singular individuals either making law or affirming law as the ethical truth of their individual life. Hence, midway through ¶467, Hegel argues that "ethical *action* has the moment of crime in itself because it does not sublimate the *natural* distribution of the two laws [unwritten religious laws and written political laws] to the two sexes" (PhG ¶467). After underlining the wrong of grounding spirit on nature, Hegel immediately goes on to argue that

It is not *this singular individual* who acts and is guilty, for as *this* self, he is just the non-actual shade, or he is only as the universal self... In the life of a people, self-consciousness descends from the universal only down to the point of particularity; it does not get as far as the point of singular individuality.

(PhG ¶467)

The non-action of Ismene is the representation of universality descending only as far as particularity, while Antigone's law-breaking and law-making is the site of a logical absence: the singular self must die.¹⁰ And just as emphatically, Hegel underlines the achievement of Roman legality as "*this* singular individual" emerging "out of his non-actuality" (PhG ¶476).

6.1.4 Absent Particular Life

The authorizing of singular individuality is announced with Christianity, but only achieves universality in the modern world when individual freedom,

individual self-determination, and the power of the negative that belongs to self-consciousness and is hence an ingredient in all universality finally come to be recognized. But individuals cannot be free and self-determining unless the social whole, the concrete universal of which they are parts is free and self-determining (Pinkard 2012: 116). To assume otherwise would minimally posit that the social shape of universal norms was either permanent or self-specifying, hence not open to redetermination by the subject. But if those claims were true, we would all be like Ismene, creatures of our social role(s). Collective self-determination of universal norms is a necessary condition for individual acts of self-determination to be more than merely formal. The French Revolution is hence the binding together of singular freedom and collective freedom – universal freedom finally recognized as the truth of spirit. As Hegel powerfully announces this moment: “Thereby spirit as absolute freedom is now present...The world is quite simply its will, and this will is the universal will” (PhG ¶584). The coordination between an individual free will and the actual general will of the community is the explicit historical instantiation of the “*I* that is *We* and the *We* that is *I*” (PhG ¶177):

it [the general will] is posited as lying in a real universal will, the will of all singular individuals as such. For the will is in itself the consciousness of personality, or of each of them, and it is supposed to be the genuine actual will as the *self*-conscious essence of each and every personality, undivided from the whole...and what emerges as a doing of the whole is the immediate and conscious doing on the part of each.

(PhG ¶584)

But precisely because constitutive freedom eviscerates bodily nature and social particularity, the Terror of the French Revolution is, on careful analysis, a failed syllogism. In ¶590, Hegel provides the stand-off, why only negative work is left: “on account of its own abstraction, it actually divides itself into equally abstract extremes, into the simple, unbending cold universality and into the discrete, absolute and hard headstrongness and obstinate isolation of actual self-consciousness” (PhG ¶590). The abstraction is a consequence of disallowing *particular* life practices that, as such, would be distinct from transparent universality and immediate singularity. Hegel conceives of the French Revolutionary effort to unite the singular free will with a universal general will becoming the death-dealing Terror as an advanced form of the very same logic of the battle for recognition that launched the chapter on self-consciousness. In that instance, it was the necessity of the risk of life for the sake of lifting individual willing into authoritative universal willing that led to only two possibilities: the death of the other or the death of the self. In the French Revolution, universality is cold because indifferent to individual *lives*, and individuals are narrowed down to their singular wills without a means of achieving either *particularity* (personality), their lives, or universality in themselves. Effectively, the analysis of the Revolutionary negation of

particular work, deeds, and roles (PhG ¶¶588–592) as perverting or staining absolute freedom and universality with particularity logically functions in the same way as the demand for the risk of life functioned in the account of self-consciousness, in each case generating a vicious, because unsurpassable, dualism between *universal* and *singular*. When there is a failure of living mediation between universal will and singular will, then the former destroys the latter: life, living particularity, is necessary for self-consciousness; or, what is the same, *particular* life is a *logical* ingredient in self-consciousness in the mediating role of particularity (PhG ¶593). Despite being declared *formally* equal to universal freedom, particularities (personality) are erased in/through the general will and thus also the possibility of achieving *substantial* universality (PhG ¶590).¹¹

The Terror is a broken syllogism because it exposed the absence of a mediating middle term. Freedom requires particular life, not as an external condition, but constitutively: the purposiveness of the whole is its striving to reproduce *life* and to reproduce *free* life.¹² Hence in a manner directly parallel to the way in which the institution of nature in society blocked the emergence of singular individuality, so here the condition of spiritual freedom is seen as blocking nature, as requiring the elimination of natural givens, of all forms of natural authority, of all claims to a natural-organic organization of family, civil society, or state.

6.1.5 Absent Concrete Universality

If the grand spiritual achievement of modernity is to have provided rational vindication for singular subjectivity, the spiritual pathology of modernity in 1807 was that singular subjectivity conceived of itself as the unconditional authority over the being and being-thus of the universal, thus repudiating spirit as collective ethical substance: *Moralität* intends the negation of *Sittlichkeit* – as if ethical life were a remnant of traditional (feudal) authority. Passionate (particular) individual (singular) conscience (universal) already appears as syllogistically complete. Hegel's conception of the ethical syllogism gives initial credibility to conscience's conception of itself as a unique joining of subjectivity (self-certainty) and objectivity (truth). Because conscience is the most complete and developed form of individual moral self-consciousness, then its overcoming is the final dialectical sublation in Hegel's argument. In working through the contradictions of conscience, Hegel is attempting to outline the terms for a non-self-defeating ethical syllogism. And we have been implicitly anticipating this culmination almost from the outset: from the moment of the arrival of self-consciousness, we readers have known that our internal self-relation is mediated through the other. If conscience is the concrete moral cogito, the moral I think, the moral form of actualized apperception, then once it phenomenologically undergoes an explicit experience of dispossession from the individualist moral form of concrete apperception and comes out the other side as a conscientious self, recognizing its being intersubjectively

and constitutively communally bound to its proximate others, then it and we conscientious moderns will have effectively become truly aware of ourselves as spiritual beings.

Although Hegel's argument here is immensely complex, for our purposes two thoughts need highlighting. First, Hegel conceives of acting consciousness as a modern, conscientious Antigone. Acting consciousness conceives of herself as not only transgressing the universal that judging consciousness upholds but also innovating a new universal through her singular will.¹³ So radically singular is her act that Hegel describes acting conscience as a "determinate *singular individuality* emptying itself [i.e. subtracting itself] from the universal" (Ph ¶659). Her content is not yet universal content but solely what corresponds to concrete, determinate, singular willing; hence her designation as "evil." Passionate singularity and evil are the same; hence, when singularity is finally recognized as necessary for universality – because only through singular acts of willing, doing, or judging, can universals become actual – then (logically singular) evil can be said to be also good. Second, while conscience is the most achieved state of human inwardness, Hegel argues that its existence, the existence of the pure self, occurs in language (drawing on the account of language and self he had already innovated in the account of the language of flattery (PhG ¶¶519–520)):

However, language emerges as the mediating middle between self-sufficient and recognized self-consciousnesses, and the existing self is immediately universal, multifaceted, and, within this multifacetedness, it is simple recognition. The content of conscience's language is the *self knowing itself as essence*. This alone is that to which it gives voice, and this giving voice is the true actuality of the doing, is the validity of the action.

(PhG ¶653)

In the work of language, singularity can be raised to a claim to universality, and if validated, then the singular claim becomes universal. *Conscientious binding* is only intelligible in a certain kind of social space that includes a particular range of expressive/performative linguistic practices: "I am here acting conscientiously – I can do no other." That we tolerate such usage, that we provide social and even legal space for claims of conscience, is to say that the language of conscience is a particular language of mutual recognition. But this is equally to say that universality is the work of communal recognitions – a concrete universal.

6.1.6 Syllogistic Completeness

This is sufficient for the idea of syllogistic completeness to emerge, with each of the logical terms having a central but not solely one ethical content. *Universality* for Hegel is indistinguishable from established communal

norms; the community itself is the concrete universal. Although there are further complexities, the concrete universal that will contain the other logical forms as component parts is equally what Hegel means by the concepts of *objective spirit* and *ethical life*. That universality is actual only as spirit or ethical life is the lynchpin to Hegel's philosophical innovations concerning the meaning of reason and the structure of his social ontology. While the claim for sensuous particularity arose in Perception, the central conception of *particularity* is that of the embodied living individual in her capacity as role bearer, as the bearer of shared characteristics and features, hence the individual as she functions within those practices that secure the reproduction of community life.¹⁴ *Singular individuality* is the excess of individuality beyond particularity; but what that finally comes to is the individual free will that exceeds any particular existing content, thus making it possible for the will that is my will to judge which roles and universals to act on. Even more radically, however, the actuality of the singular will can *become* a new formation of the universal, a new version of an existing role, and the creation of new law. The power of the negative, the power of "no!" and death, is both the negation of existing law and affirmatively, the introduction of new law. The social actuality of this idea of new beginnings, new universals, is an invention of the modern world – beginning with Descartes. Modernity validated and gave social meaning to individual creation, validated and authorized irreducible mineness, or, more precisely, found social mechanisms for recognizing the meaning of such singular individuality. Conscience, and the social practices that are going to be necessary in order to socially sustain conscientious action –the social practices of confession and forgiveness– are the achievement of modernity. Hence, modernity solidifies, vindicates, and is able to offer full rational authority to a logical category: singularity. This vindication is equally worked through in artistic modernism, romantic irony, and democratic practice. What Hegel is thus meaning to demonstrate in the spirit narrative is the possibility of syllogistically articulating the full ethical significance and meaning of universal, particular, and singular – where each ethical-logical form can mediate the others. In arriving at this juncture, Hegel can argue that modernity –phenomenologically, self-consciously, and ethically– solves the problems faced by previous forms of consciousness and forms of spirit, and that it does so because it is fully rational, where being fully rational means being syllogistically complete.

Apart from having each of the three logical functions implicated, what does syllogistic completion mean here? In her PhD dissertation (Katsman 2021), Anna Katsman argues that "complete" means fully self-differentiating and self-mediating. That the singular is not just a token of an existing universal but also exercises authority over the meaning of universality itself. And likewise that the universal exercises authority over the singular in turn insofar as the singular acts in the name of universality. This reciprocal relation is what, arguably, is missing from traditional syllogistic deductive and inductive reasoning as distinct species of reasoning. Traditional logic always subsumes

particular and singular under the universal. Katsman has persuasively argued that Hegel ultimately wants to move from the stand-off between deductive and inductive reason to a notion of self-mediation, which is first self-consciously actualized in conscience as the final form of spirit. And, I should add, this is necessary for the meaning of logical forms because of Hegel's theory of actuality and actualization: universals are rationally authoritative only if actual; universals are actual only through concrete social practices borne by socialized individuals capable of self-consciously re-determining those practices. Life and spirit, living species and communities undergo perpetual redetermination.

6.2 Part Two: Pathologies of Individuality and Universality in the *Philosophy of Right*

6.2.1 *Inequality and the Failure of Universality*

It remains faintly embarrassing and somewhat perverse that the achievement of spirit becoming aware of itself as a syllogistically complete self-mediating whole should occur in a fictional scene of mutual recognition between acting and judging consciousness, confessing to and forgiving one another for their singular individuality as the mediating source and condition of the actuality of spirit's concrete universality. But this fictional scene is also the site of a known absence: in the *Phenomenology*, ethical life remains either lost (PhG ¶355) or not yet (PhG ¶356). The social learning that we readers of the *Phenomenology* undergo is directed toward making explicit and conscious the spiritual *Bildung* that has brought we modern subjects into being. Hegel is assuming that our social learning can become a new commonsense that would foster a new world, thereby enabling its ethical life to become institutionally explicit.

With the *Philosophy of Right*, Hegel is confident that the syllogistic completeness of the modern form of life is that of an institutionally replete ethical life.¹⁵ Of course, in claiming that the dominant institutions of modernity conform (proleptically or in principle) to the syllogistic demands of *objective spirit* – what ethically actual spirit is henceforth called in Hegel's system – Hegel seems to mean that those institutions can and should be so interpreted by the philosophical observer, that the interpretation of them as achieving syllogistic completeness is “the [rational] rose in the cross of the [often alienating and empirically challenging] present” (PR 22). Only those who “have received the inner call to comprehend” will be able “to preserve their subjective freedom in the realm of the substantial, and at the same time to stand with their subjective freedom not in a particular and contingent situation, but in what has being in and for itself” (PR 22). Modern ethical life might not always lend itself to being an ethical formation that supports the ethical life of freedom; but understood aright, *philosophically comprehended*, it is a formation that provisions the institutionally mediated actuality of human freedom.

Hegel's concession here about the experience of freedom in modernity, and who might experience it *as* rational freedom is a stark and disturbing concession – which matters both to a reading of the *Philosophy of Right* and to the world it means to comprehend. Put the problem this way: if *only* those called to comprehend can square subjective and objective freedom, individuality, and universality, might this signify a lack of actuality, some form of syllogistic incompleteness, some fundamental manner in which modern individuality resists and remains incommensurable with demands of ethical universality? Might Hegel's own accounting for the rationality of modernity already adumbrate and concede precisely the collapse into the inequalities and neoliberal pathologies of the present? It is just this thesis that best captures the path from 1807 to 1820 to now.

Contrast Hegel's claim about the role of philosophical comprehension in the *Philosophy of Right* with the status of the absolute standpoint in ¶26 of the Preface to the *Phenomenology*. It begins with a claim that sounds almost the same as what we just read: "Pure self-knowing in absolute otherness, this ether *as such*, is the very ground and soil of science, or, *knowing in its universality*" (PhG ¶26). But in the *Phenomenology*, rather than making this comprehension the unique prerogative of those whose vocation is science, Hegel contends this is the fundamental *right of subjectivity*:

For its part, science requires that self-consciousness shall have elevated itself into this ether in order to be able to live with science and to live in science, and, for that matter, *to be able to live at all*. Conversely, the individual has the right to demand that science provide him at least with the ladder to reach this standpoint. The individual's right is based on his absolute self-sufficiency, which he knows he possesses in every shape of his knowledge....

(PhG ¶26, my emphasis)

I understand that final acclamation to be referencing the self-certainty of conscience as the subjective pole of absolute knowing. As I read this passage, Hegel is claiming that the opacity and hence alienation of modern living, the removal of the exigencies of ethical life as such from direct experience, can be overcome only through ascending to a point of view in which the spiritual structure of the whole becomes reflectively available; philosophical science is (because of the moral individualist repudiation of spiritual grounding) and will remain (because of the structural complexity of modern life) the necessary medium of rational self-confidence replacing all the naive and broken modes of self-certain world-binding. Anticipating the standpoint of modern sociology, Hegel is arguing that given the structural complexity of modern life, it has become incapable of immediate or direct representation or survey; only a reflective reconstruction of modern life makes its ethical structures and normative authority available and intelligible. This for Hegel is part and parcel of living in a post-religious, socially self-differentiated, structurally complex

form of life. The very fact that throughout the modern age, the *grounding* of the practices of practical life in spirit has been unavailable to the dominant forms of moral individualism is the overwhelming evidence for the justness of this claim: modernity rests upon a fallacy of misplaced concreteness, perceiving the individual but not the spiritual whole that provides her constitutive conditions of possibility for living at all. In the *Phenomenology*, the right of subjectivity that is fully given in the claims of conscience can only be satisfied by inhabiting the ether of science, thereby making its outlook ethical commonsense.

6.2.2 Ethical Disposition and Broken Trust

Nothing in the *Philosophy of Right* quite corresponds to this claim that to live at all one must inhabit the ether of science as a new and emergent common-sense as the ground right of subjectivity. The closest approximation is Hegel's account of the virtuous dispositions of love, honor, and patriotism that are the virtuous attitudes ethically appropriate to family, one's estate in civil society, and one's connection to the state. Assume those attitudes can be interpreted as the *affective cognitions* that express an individual's binding commitment to being a member of those social wholes; as Hegel states in the transition to Ethical Life: "The *ethical* is a subjective disposition, but of that right which has being in itself" (PR §141). Hence, the three signature affective cognitions of love, honor, and patriotism are effectively recognitions of self in otherness, thus practically satisfying the role assigned to the ether of science in the *Phenomenology* of reconciling subjectivity and universality. And if the modern form of life were as Hegel claims it to be, this argument would have substance; but actuality has turned out to be different. Even if love functions in the way Hegel conceives, modern trade unions never quite became the kind of function of being a joint professional association, interest group, and welfare protection agency that could provide "*honour in his estate*" (PR §253) that Hegel conceived the corporations of early modernity satisfying.

The "political disposition" is even more central to Hegel's argument. It is the "subjective substantiality" corresponding to the "objective substantiality" of the "*organism of the state, the political state proper and its constitution*" (PR §267). The state, Hegel argues, is the fulfillment or completed shape of objective spirit; it actualizes what the community of conscience adumbrated. In the state

the substantial is present as the subjective existence of individuals; but the other mode of necessity is the organism, i.e. the spirit is a process within itself which is internally articulated, and which posits differences within itself through which it completes its cycle.

(PR §267A)

The state is the modern self-mediating whole. Subjective substance is experienced as actual in the political disposition of patriotism – matching the

claim that the ether of science can become a new ‘commonsense’ in the *Phenomenology*. This becomes explicit in Hegel’s identification of patriotism with trust; the reason he identifies patriotism with trust is that patriotism is the disposition which, “in the normal conditions and circumstances of life, *habitually knows that the community is the substantial basis and end*” (PR §268; my emphasis). Trust is the affective and cognitive experience of the political community as the ground and purpose of ordinary social practices. And yet, trust’s efficacy depends on the *institutional actuality* of ethical life, and because that now does not hold, because it has been insistently and with increasing ferocity repudiated by moral individualism, then the trust doctrine fails: almost nowhere in the North Atlantic civilization is the belief that the political community is the substantial basis and end of individual life embraced.

We know empirically that in the modern world patriotism is often not constitutional patriotism, not allegiance to a lawful form of life, but rather nationalist patriotism, allegiance to a racial/ethnic group – and increasingly so at present. This would worry Hegel’s thesis all by itself, but for the fact that the disposition of patriotism is even more ethically significant than it initially appears because, on Hegel’s construction, patriotism is the prefiguration or veil for the ethically constitutive disposition of trust. As if picking up the thread of argument from the *Phenomenology* where he argues that modern religious faith is the alienated, individualist form of ethical trust that disappeared when beautiful ethical life disappeared, Hegel argues that in the modern state trust is the ethical substance of everyday life:

consciousness that my substantial and particular interest is preserved and contained in the interest and end of an other (in this case, the state), and in the latter’s relation to me as an individual [*als Einzelnem*]. As a result, this other immediately ceases to be an other for me, and in my consciousness of this, I am free.

(PR §268).¹⁶

Everyday trust that ordinary life will continue to be possible and, within the limits of practicality, remain satisfying is the practical fulfillment of our self-knowing in otherness – were it satisfied. Patriotic feeling signals attachment to the ethical disposition expressed by trust because patriotic feeling is the experience that prepares the way for the more perspicuous one of willingness to perform “*extraordinary sacrifices and actions*” (PR §268) that we normally consider under the label of patriotism.¹⁷ Patriotism is the substantial feeling that the state is my true purpose, while trust is the daily actuality of the recognition of that purpose, and hence of the recognition of self in the otherness of the political community.

Were Hegel’s trust doctrine satisfied in the manner he outlines, modernity would have been a different space than the one it has become and, analogously, patriotism would not have come to be expressed in pathological forms that seek to salve isolation through illusory practices of national belonging.

There are three features of trust whose failing reveals the broken trust of ethical modernity. (i) As Hegel concedes, trust, as the habit of living in safety, can be so deeply habitual, so ingrained as one's second nature, that one can be blind to its grounding in the whole, that it is "the effect of particular institutions" (PR §268A). But this is as much as to say that trust and the ethical experience of belonging can suffer systematic diremption. Because trust is most actual when most unnoticed, most taken for granted, then the ethical belonging making trust relations possible can be fully removed from individual consciousness and experience. (ii) That from the perspective of a reductive moral individualism, one can consider one's relation to the institutions providing and securing trust as instrumental rather than organic and constitutive; and this is all the more the case here because the good of trust – one's unthinking confidence that one is safe, that one's life will continue along predictably acceptable pathways, that one has standing in the eyes of one's fellows – does have a purposeful, instrumental aspect. By itself, the experience of ethical trust, awareness of trust, does not necessarily require ethical self-understanding in its Hegelian sense. (iii) The first two qualifications presume that trust is socially actual but either absent from self-consciousness or misinterpreted in its presence. However, in actuality, trust is, and has been throughout the modern age, an unevenly distributed social good in which all the fundamental social divisions become fracturing and fragmenting practical and ethical divisions: class (rich versus poor), race, gender, citizenship, geographic location, etc. Because these social divisions in most modern states are a *visible* reminder of the unequal distribution of social safety, *then social safety in general is regarded not as a constituting ground of ordinary life, what trust promises and offers, but as a privilege*. Rather than trust being the ethical substance of everyday life in which the standing of each citizen is recognized by all, social safety in general and as such appears as a privilege of social status; freedom and dignity remain privileges rather than universal rights.

It is a fundament of Hegel's comprehension of modernity that the right of persons – where "Right is primarily that immediate existence which freedom gives itself in an immediate way" (PR §40) – is no longer believed to be a privileged status separating the free man from the slave; modern universality is meant to remove privilege and status from any constitutive role in social standing; this, once more, was what was announced on the night of August 4, 1789. Call this the moral promise of modernity. This promise has been broken. The reason that class, gender, race, ethnicity, and citizenship have become fields of devastating conflict is that they have replaced slavery as markers for exclusion from the universality of personality, revealing that being a free person remains a privilege rather than an ethical premise or moral given of modern life – or better, being a free person remains a social status and privilege despite being declared morally constitutive of modern life.¹⁸ If the ground ethical disposition that is meant to provide recognition of self in otherness brutally and insistently fails the universality modernity itself promises, then the modern form of life fails. Prior to and independently of climate

change, it has been these forms of *systematic inequality*, inequalities in standing and status that have been, in the last instance, resistant to dissolution that has provided the overwhelming experience of liberal capitalism as a failed and failing form of life.

Here is my hypothesis: failed and failing liberal capitalism is itself insistently failing the demands of objective spirit in part because of those very features of objective spirit that give voice to the rights of modern subjectivity. For the purposes of this argument, ignore Hegel's misplaced confidence that market capitalism could be subsumed within a more capacious and communitarian ethical whole. What Hegel directly failed to appreciate is that fundamental features of modern individual subjectivity that are essential to the emergence of the syllogistically necessary right of subjectivity in North Atlantic modernity resist and are even antagonistic to the possibility of effective and self-conscious inclusion within and hence sublation into ethical life. Hegel's proposed ethical syllogism collapses because modern singular individuality *blocks* the transition from the abstract moral universal, Kantian-Fichtean rational universality, to the concrete universal of the state. It is not accidental that since the French Revolution, and in reaction against it, the disposition of modern freedom has been understood as freedom *from* the state – say, having the right not to be vaccinated. This is the opposite of how Hegel conceived modern freedom: ethical freedom is only *concretely* objective freedom because of the activity of subjective individuality, when this individuality “lives [in ethical objectivity] as in its element which is not distinct from itself,” and in it finds “its *self-awareness* [*Selbstgefühl*]” (PR §147)¹⁹ Hegel meant the analysis of the *Philosophy of Right* to succeed that of the *Phenomenology* through the emergence of institutions that could bear the demands of syllogistic completeness; effectively and formally, however, the two analyses converge in that either with or without institutional fulfillment, the role of the actual and concrete universal, that is “the substantial middle [term] in which the individuals and their satisfaction have and acquire their fulfilled reality, mediation, and subsistence” (EL §198)²⁰ turns out to be only or solely a suppressed, denied and repudiated but nonetheless actual presupposition for the practices securing the reproduction of modern societies. Contrary to Hegel's optimistic construction, the effectiveness of the denial and suppression of objective spirit by the diverse formations of modern individualism eventually becomes the fracturing and disintegration of the ethical substance itself: failed and failing liberal capitalism. It is Hegel's own view that a form of life cannot consistently sustain a form of awareness and self-consciousness that repudiates its own social conditions of possibility, its grounding in objective spirit.

6.2.3 *The Persistence of Morality and Conscience*

Although the persistence of moral individualism in opposition to ethical universality has its most intransigent instance in the possessive individualism of the free market economy which neoliberalism has sought to make the model

for all social relations, there is a deep synergy connecting liberal moral individualism to its economic twin version; but this is to argue that the persistence of morality and conscience requires examination in its own right. Because conscience unites singular conviction with universal legislation, it is the fulfillment of the claim of moral individualism. When conscience phenomenologically discovers its claim to universality must be mediated through the recognition of its communal others, that conscience can only *exist* through *participating* in a community of conscience, it becomes aware that its most inward and integral subjectivity is mediated through its others: it experiences a recognition of self in absolute otherness. In the Preface to the *Philosophy of Right*, Hegel treats what was the supreme moment of self-consciousness in the *Phenomenology* as now deserving mockery and ridicule:

The form of right as a duty and a law is felt by it [conscience] to be a dead, cold letter and a shackle; for it does not recognize itself in the law and thereby recognize its own freedom in it, because the law is the reason of the thing [*Sache*] and reason does not allow feeling to warm itself in the glow of its own particularity [*Partikularität*].

(PR 17)

The conflict here is central to the project of a philosophy of *law* (*Recht*) since it concerns the authority of conscience or morality to identify “right with subjective conviction” versus law and the ethical which is to be grasped “by means of *thoughts* and give themselves the form of rationality – namely universality and determinacy” (PR 17).

Hegel refers us to the argument of PR §258 in which he sees with perfect clarity that the contrast is not simply between the authority of moral inwardness versus the authority of the state, but that these competing conceptions of rational authority equally bear on whether the state is conceived instrumentally or as the intrinsic fulfillment of free willing. Hence, when individual moral consciousness claims that it is rationally entitled to judge for itself whether law is objective, it instrumentalizes the state:

If the state is confused with civil society and its determination is equated with the security and protection of property and personal freedom, the interest of individuals [der Einzelnen] as such becomes the ultimate end for which they are united; it also follows from this that membership of the state is an optional matter.

(PR §258; my emphasis)

The stakes here are not solely between individualist and social conceptions of freedom – free from state power versus freedom for-and-in otherness – but equally between instrumentalist and non-instrumentalist conceptions of the state and ethical community. Everything wrong with social contract conceptions of the state is equally wrong for positions that begin from moral

individualism: they are the same wrong. If morality is solely a check on unilateral desires, where desires are taken to be direct expressions of self-interest, then there is no reason to regard the state as anything other than a means for realizing private ends – thus reducing the state to being a further moment of civil society. As we know, Hegel intends to contrast this thought with one which hovers uneasily between Greek ethical life and modern civic republicanism:

But the relationship of the state to the individual is of quite a different kind. Since the state is objective spirit, it is only through being a member of the state that the individual himself has objectivity, truth, and ethical life. *Union as such is itself the true content and end, and the destiny [Bestimmung] of individuals is to lead a universal life....*

(PR §258; my emphasis)

No passage is clearer or a more eloquent expression of Hegel's overcoming of individualist moral rationalism to embrace that form of universalism derived from membership in a sustainable form of ethical life. Nonetheless, in this setting, Hegel is bizarrely casual about "whether or not it [the fundamental concept] is recognized by individuals and willed by them at their discretion" (PR §258), assuming that because the subjectivity of freedom is only one moment of the Idea of the rational will, only one moment of objective spirit, its one-sidedness can be ignored. But this thesis only makes sense if the law is ethically substantial and rational despite its being misjudged or misunderstood or relegated to instrumentality by the individual. However, if law becomes solely a creature of civil society's self-interested individualism, then it becomes not an expression of union but solely a set of conventional rules regulating the war of all against all.

Why has modern moral individualism, the domains of abstract right and morality, proven resistant to practical – as opposed to merely philosophical – sublation? Or, if that seems an awkward way of stating the issue given Hegel's actuality doctrine, why has *Moralität* proved resistant to being transformed into a self-conscious *Sittlichkeit*? Why has ethical life remained as Hegel described it in 1807 – either lost (PhG ¶355) or not yet (PhG ¶356) – rather than the one he thought that had arrived in 1820? Why has modernity remained a broken middle? Here is a hypothesis: the experiential ground of the separation between moral individualism and substantive ethical life derives in part from a claim that Hegel himself underlines, namely, "the right to recognize nothing that I do not perceive as rational is the *highest right of the subject*" (PR §132; my emphasis). Consider this claim as the modern continuation of Protestant religious faith and conscience. It is what Kantian moral reason is giving form to. In relation to this claim, Hegel's continuation of this sentence itself sounds question-begging: "...it is at the same time *formal*; on the other hand, *the right of the rational* – as the objective – over the subject remains firmly established" (PR §132). Against the *claim* of the right of insight and consent,

this is insufficient: morality and conscience can recognize their own formality or fallibility or indeterminacy or need for social embedding, that is, they can assess their own structure, limits, and needs *without* conceding they are dependent on a *reason* or *rationality* independent of them. From the perspective of moral individualism, Hegel conflates the contingency of particular events of individual reason with its transcendental claim, where that transcendental claim derives from a radical distrust and radical skepticism of any authority external to individual subjectivity from Descartes' life and death struggle with the evil demon to Hobbes' self-interested subject forever distrusting of the other to Kant's vanquishing the authority of the good in itself to leave only the wholly autonomous will capable of regulating itself. What gives force to the transcendental claim as expressing the authority of *singular* individuality in its mood of constitutive distrust of external authority? The best explanation for the gap between moral individualism and ethical life is that the gap is *anthropological*: morality belongs to a philosophical anthropology of individualism that takes individual natural freedom as it is *figured* in the state of nature as the truth of individual freedom and mindedness. One cannot accuse an anthropology that means to project and has succeeded in projecting a whole form of life of being "formal." From the perspective of moral individualism, that is the conflation of Hegel's argument. In the constructions of Locke or Hobbes or Kant, the embedding of individuals in customary and state legal practices is for the sake of protecting human freedom by giving it legal and social standing. The embedding is *practically necessary* for realizing a claim that already exists; but that practical or instrumental necessity is not the same as *constituting* what is realized. The necessity of a civil condition and the obligation to join or submit to one makes the realization of freedom a social achievement; but that social achievement is for the sake of what is taken to be in itself morally self-sufficient. Nothing in Hegel's *direct* critique of morality or conscience in the *Philosophy of Right* rises to the required level to defeat the anthropology of moral individualism; it is that anthropology that makes the whole range of criticisms of *Moralität* and conscience appear to those upholding those standpoints as irrelevant, as, precisely, external and formal. And, returning to my opening claim, since Hegel agrees that forms of life fail not by failing an external standard but by failing to be livable and sustainable, then the persistence of moral individualism until this very failing moment we are in now is evidence for its individualist philosophical anthropology practically anchoring *the liberal capitalist form of life*: singularity without ethical universality.

If Hegel's direct criticism can only appear to moral individualism itself as anthropologically question-begging, then moral individualism cannot be internally sublated *within* the modern form of ethical life. Only its actual dissolution within a subsequent form of life could accomplish its sublation. Hence, Hegel's doctrine of the sublation of abstract right and morality by ethical life is either true but solely in the manner directly analogous to the argument of the *Phenomenology of Spirit*, that is, moral individualism is itself a

form of spirit and presupposes an ethical life for its own proper functioning, or false. The *Philosophy of Right* tells us something about the rational potentiality of modern institutions, but as such, they remain in the grip of the moral individualist-statist double and do not escape it.

Notes

- 1 Bruntland (1987, Part I, §§27, 25).
- 2 For internal and external diagnoses of this failure, one can compare Milanovic (2019) with Piketty (2020).
- 3 There is wide agreement that the mixed economies, with strong labor unions and robust welfare state provisions of the post-war period were an historical aberration (see Piketty 2017).
- 4 For the argument that modern subjective freedom invented by Jesus and actualized in the free market (a thesis Hegel too supports) is *incompatible* the doctrine of society, that human living is a constitutively social achievement, see Polanyi (1957), with the thesis given philosophical form on 258ff.
- 5 A negative answer to this question is shared by left, liberal, and conservative critics of liberal capitalism may be found in: Brown (2015); Deneen (2018); Pabst (2019).
- 6 For a fine account of the idea that Hegel is concerned with the practical failure of forms of life, forms of life that are not livable or sustainable or are experienced as somehow uninhabitable, see Novakovic (2017). In the background of Novakovic's account is Jaeggi (2018).
- 7 The theory I elaborate here owes more than I can say to Katsman (2021). Katsman deserves all the credit for seeing how the entirety of Spirit depends on the ethical syllogism; and how that argument in fact underwrites and grounds the argumentation concerning syllogistic reasoning in the *Science of Logic*. Katsman has proposed a compelling overall argument as to why we must regard the *Logic* as expressive rather than transcendental. As she elegantly summarizes her theory:

Reading spirit and the syllogism together, we comprehend how the travails of spirit and its final shape do not just articulate intelligibility as collective practices of sense-making, but explicate the rational form of social practice, which justifies spirit's practices as genuinely sense-making.

For an earlier sketch of the ethical syllogism, see Bernstein (forthcoming).
- 8 In making this claim, I am leaving out of account the more complex relation between living nature and spirit, where spirit is simultaneously a form of *life*. For a deep interrogation of this structure, see Ng (2020).
- 9 On Aristotle's failed struggle to validate singularity as distinct from particularity in syllogistic reasoning, see Redding (2012).
- 10 For a fuller account of this reading of the Antigone episode, see Bernstein (2010).
- 11 I owe this phrasing of the thesis to Agnese di Riccio.
- 12 For a pertinent account of this structure elaborated through the logic of the syllogism itself, see Suther (2020).
- 13 For this reading of conscience see Bernstein (1996).
- 14 Moyer (2017: 166–95) documents how Sensuous-Certainty, Perception, and Understanding are each used to announce the logical forms of singular, particular, and universal; and how those logical forms are used to organize Hegel's ethical argument in general.
- 15 For a compelling defense of ethical life as an institutional theory, see Kervégan (2018).

- 16 For a defense of trust as the ethical substance of everyday life, see Chapter 6 of Bernstein (2015).
- 17 This argument assumes the validity of the thesis that our second nature of habitual, customary practices is the fundamental stratum of any broadly effective ethical life. For a powerful defense of this thesis, see Novakovic (2017).
- 18 For the thesis that immediate response to the announcement of universal human rights was an upsurge in efforts to exclude women and racial others, see Hunt (2007).
- 19 Notice how the language here closely approximates the ether of science becoming commonsense locution.
- 20 This is anticipated in (SL 642–3). My claim is that the syllogistic operations, the extension of syllogism to the logic of ethical life in these passages *depends* on the construction of the ethical syllogism in the *Phenomenology*.

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7 True Right Against Formal Right

The Body of Right and the Limits of Property

Thomas Khurana

In 2017, the High Court of Uttarakhand declared that the rivers Ganges and Yamuna are to be treated as legal persons.¹ In the same year, a case was opened in the U.S. District Court of Colorado on behalf of the Colorado River against the State of Colorado seeking recognition of the Colorado River Ecosystem as a legal person. The plaintiff justified the lawsuit as follows:

Our system of law has failed to stop the degradation of the natural environment, and consequently, has failed to protect the natural and human communities which depend on it for their survival and livelihood. Environmental law has failed to protect the natural environment *because it accepts the status of nature and ecosystems as property*, while merely regulating the rate at which the natural environment is exploited. Its failure can be seen from the worsening of climate change, the continued pollution of ground and surface water, accelerating species extinction, and the decline of every major ecosystem on the continent. The Colorado River is one such ecosystem.²

Against this background, the plaintiff asks the court to recognize and declare that the Colorado River is capable of having rights that are similar to those of a person, and further, that the Colorado River is not just legally capable, but actually possesses rights, namely: “certain rights to exist, flourish, regenerate, naturally evolve, and be restored.”³ Since then the complaint has been dismissed, following the plaintiff’s own motion to dismiss.⁴ Quite independent of this specific outcome, however, the case documents the currently increasing efforts in the field of law to fundamentally rethink the relationship between right and nature.⁵

These efforts are reflected not least in the attempt to expand the circle of legal persons and to include entities that were previously denied this status. It is particularly noteworthy with regard to this specific case that we are not merely asked to consider an individual non-human living being – a single definable living body of a certain non-human species – as a candidate for personhood. The Colorado River’s lawsuit against the State of Colorado is not based on the idea that the river is a living individual whose right to life

is worth protecting. Rather, as the lawsuit states, the river is an *ecosystem*, a “complex collection of relationships.”⁶ The court is thus asked to recognize that such a complex bundle of relations of living and non-living things is entitled to the legal protection of its existence by granting it personhood.⁷ This is obviously a very challenging demand. It is not quite clear how exactly to individuate and specify the integrity of an ecosystem and how to determine what constitutes its violation. And to consider an ecosystem as a person would certainly require us to fundamentally recast our conception of what it means to be a person.

In the following, I will not directly address the question as to what extent it may make sense to grant legal personhood to ecosystems and how this status could be realized in practice – questions that are obviously of immense difficulty.⁸ Before we can even go on to address whether an expansion of the notion of a legal person is the right response, it is important to first understand the problem that motivates this challenge and that concerns the very foundations of our understanding of the realm of right. As the complaint notes, our current culture of law treats nature and ecosystems exclusively in terms of property, which entails our entitlement to exploit them. An environmental law that accepts this status of nature and of ecosystems can at best regulate the rate of their exploitation but remains unable to even consider whether they have rights of their own. By being treated as property, nature appears as the *rightless other* of the rightful will which in turn is free to do with this rightless other as it pleases. Putting aside the question of whether or not it is possible and helpful to transform the current situation by treating ecosystems as legal persons,⁹ I think the plaintiffs are absolutely right that we have to avoid construing the relation of right and nature on the basis of an abstract opposition of entitled legal person on the one hand and rightless thing on the other hand.

In order to develop this critical intuition with regard to its relevance for the very idea of right in general, I turn to Hegel’s conception of abstract right in his *Philosophy of Right* (PR).¹⁰ The conception of property, which is fundamental to abstract right as Hegel conceives of it, seems at first glance to be completely committed to a “possessive individualism” in line with the opposition of person and nature, right and rightlessness that I just indicated. This possessive individualism seems to be taken to the extreme, where even the relation of the subject to its own body and its own life is thought of in terms of a property relation. However, I will show that (1) Hegel starts with such a form of possessive individualism only to show that it undermines itself. This is evident (2) in the way Hegel unfolds the nature of property as it applies to external things as well as (3) in the way he explains our self-ownership of our own bodies and lives. Hegel develops the idea of property to a point where it reaches a critical limit and encounters the “true right” that life possesses against the “formal” and “abstract right” of property (4). Thus, I will argue, Hegel’s account suggests that nature should precisely not be treated as a rightless object at our arbitrary disposal. A fully developed realm of rights needs

to acknowledge nature instead as the “bond” between person and person and as the “foundation” of the human being’s personal existence (Marx, 2010). As such it has rights of its own – not the rights of a person, but rather rights limiting the property rights of persons.

7.1 Absolute Right of Appropriation

The *Philosophy of Right* considers the system of right as a realm of actualized freedom. Freedom, which does not remain a mere possibility but gains living reality, realizes itself as “right” (*Recht*). In this determination, “right” is to be understood in broad terms, as it realizes itself in three different modes – in abstract right, in morality, and in ethical life. Thus, the abstract right of property and contract, fraud and crime, is not the only way in which freedom becomes a reality but is just one form in which it gains objective existence. In all three of its forms, the realization of freedom in terms of right requires that the free will gains existence (*Dasein*), that is to say: gains reality in the form of a “being for others [Sein für andere]” (PR §192; see §§71, 58N). Any system of right whatsoever is defined by the fact that in it an existing being (*Dasein*) is treated as the presence of the free will: “Dies, daß ein Dasein überhaupt Dasein des freien Willens ist, ist das Recht” (PR §29). The fundamental mode in which the free will gains existence within the framework of abstract right is in the form of property. By willing something as its own, a free being is able to put its will into a thing and thus gain *Dasein* – being for others – in this objective form. The realization of right in the form of abstract right thus presupposes the fundamental distinction between person and thing, proprietor and property. In §39, Hegel writes:

The resolving and *immediate* individuality [*Einzelheit*] of the person relates itself to a given nature [*vorgefundenen Natur*], and thus the personality of the will stands over against this nature as something subjective. For personality, however, as inherently infinite and universal, the restriction of being merely subjective is a contradiction and a nullity. Personality is that which acts to sublimate this restriction and to give itself reality, or in other words to claim that existence as its own.

(PR §39)

The initial constellation of abstract right thus depends on the opposition of a given or found nature and the person. About given nature, Hegel remarks in one of his handwritten notes to this paragraph that it has no soul for itself and is not an end in itself. About the person, Hegel notes that it is a pure relation to itself (PR §35). The person can give reality to herself by positing a piece of this found nature as her own: by taking possession, using, and disposing of it, she proves herself to be the owner and proprietor of the thing. What presumably finds expression in this relation, is the fact that the human being is “master over everything in nature” (PR §39N). Thus, the legal relationship

through which the free will gives itself existence is first of all the relationship between person and thing, understood as a fundamentally asymmetrical relationship of domination: domination of the human being over nature, domination of the person over the thing. In this relation, the thing is “something unfree, non-personal, rightless [*ein Unfreies, Unpersönliches, Rechtloses*]” (PR §42), as Hegel puts it: it is “what is external to freedom as such [*das der Freiheit überhaupt Äußerliche*]” (PR §40R). It is against this background that there arises for the person “the right of putting its will into any thing [*Sache*],” that is: “the absolute *right of appropriation* which human beings have over all things [*Sachen*]” (PR §44). According to Hegel, our own bodies and lives also belong to the class of things that are external to freedom as such (see PR §40R). This seems to suggest that my relation to my body and my life is also to be understood in terms of the relation of a proprietor to their property and as structured by the free will’s absolute right of appropriation. And, indeed, in §57 Hegel speaks about the need of the human being to become its own property (*Eigentum seiner selbst*).

This is a troubling starting point. It seems that, given these initial determinations, abstract right is based upon a constellation in which the rightful will is not just opposed to something rightless, but dependent on this sphere of rightless things in which it can manifest itself. It thus seems that rightful freedom is only possible through the domination over the rightless. It is not just the case that the person *can* give itself “an external *sphere of its freedom*,” it “*has to*” (PR §41).¹¹ That is to say: in the relation of abstract right, the person has no choice but to conceive of what she confronts as a rightless thing. The realm of right thus seems subject to a structural compulsion to constitute rightlessness. That suggests at the very least the possibility that something that could potentially be itself the bearer of rights – something that may be entitled in a way that is different from the way in which a person is entitled – is stripped of its potential rights in order to be able to inhabit the position of a thing that is needed as a medium of the manifestation of the free will. If our lives and our bodies indeed fall on the side of rightless things, this further means that the opposition of right and rightlessness is a division that runs through us and determines our own self-relation. The structural compulsion of right thus produces rightlessness in ourselves: a rightless body and life, mastered by our will. Where we have to turn ourselves partially into a thing in order to constitute ourselves as a legal being, the danger inherent in this initial disposition becomes palpable.

Now, the reason why I turn to Hegel in this regard is not that he would be the only one to base modern law on the idea of property and, more precisely, on an asymmetrical relation of subject and nature, person and thing. With his exposition, he rather makes explicit with particular force and clarity a notion that informs modern conceptions of law at large. What is more, he shows in due course that this notion cannot in fact provide the right understanding of the actuality of freedom. As I will try to show in what follows, Hegel seems intent on sharpening the tension between person and thing to a point where

it becomes clear that a free will that wants to give itself existence in terms of the possession of and domination over a rightless thing will have to fail. To see this, it will be helpful to proceed in three steps. I will first turn to a property of something that is separate from myself, before I investigate, secondly, what it could mean to own myself. In a third step, I will proceed to the “right against right” that Hegel attributes to life.

7.2 Possession as an Inadequate Form of Existence for the Free Will

For Hegel, the fundamental significance of the constellation of person and thing stems from the fact that the free will, in order to realize itself as a right, must gain existence (*Dasein*). The first way in which the free will can gain existence is by embodying itself in a thing: by taking possession of a thing and identifying it as its own, the free will gains existence in an objective form. Hegel expresses this by saying that through the act of appropriation the will puts itself in the thing (PR §58A). The will thus attains a sensible form of existence in the thing.

But if it is true that the thing, in order to serve as a vessel for the will, must itself be something unfree, non-personal, rightless, how can it appear at the same time as the existence of the free, of the person, of right? It seems that the immediate notion of possession contains a contradiction. This contradiction emerges precisely because Hegel redefines the function of possession. Possession is not understood primarily in instrumental terms as a certain means of satisfying needs that requires legal regulation; rather, the fundamental function of possession is the manifestation of the free will and, consequently, of right. The true and rightful factor in possession and its determination as *property* resides in the fact “that I as free will become object to myself in possession and thereby also for the first time actual will” (PR §45). But precisely as such a manifestation of the free will the thing stands in tension with itself: in order to *become* the existence of the free will, the thing itself must be rightless; in order to *be* the existence of free will, the thing must at the same time embody right. *The thing is a rightless expression of right, an expression of right through rightlessness.* How can this be? If it is possible at all, then it will certainly require a complex mediation. It is precisely this complex mediation that Hegel is concerned with in his account. In elaborating this mediation, it turns out that the mere possession of the thing (*Besitz*) cannot be understood as an existence of the free will, only the thing as property (*Eigentum*) can be. To the relation of *property* belongs a more complex relation to the thing. This more complex relation is, first, not exhausted in taking possession, but includes use and alienation, that is, the negation and abandonment of the thing. The relation of property is, secondly, characterized by the fact that the relation of person and thing has to be understood on the basis of the more fundamental relation of person and person, which is only mediated through the relation of person and thing. In the unfolding of ownership, it thus becomes clear that the thing,

considered in itself, is an essentially inadequate form of the existence of a free will. Though it may seem that in the act of taking possession will and thing are identified, that I myself become a thing in this act, it transpires in due course that this is in fact a mistaken notion.

While possession initially makes me appear as a thing myself, and might suggest that “I myself [am] a thing [*Ich selbst Sache*]” (PR §66N), the further development of this notion reveals the contradictory nature of this idea and shows that my “destiny” is that “I as a thing, nature, shall *perish*, and become *free*, – be resurrected,” as Hegel writes in a note (PR §66N).¹² So it is not simply through possession, but rather by *overcoming my reification in possession* that my free will gains existence. The existence of the free will is not the thing as such; this existence rather emerges from the thing. Already the act of mere possession involves a first transformation of the thing into a presentation of its mineness: not the thing in itself, but that the thing is mine, that I put my will into it by taking possession, by formation and signification, can make it a manifestation of the will. The fact that the free will goes beyond the given thing and only thereby gains its existence in it is even more obvious in the *use* of the thing and the *alienation* of property.

Hegel characterizes the *use* of the thing as a mode of its negation: in the relation of use, “the thing is negative in relation to the will and so it is in the thing as something to be negated that the will has its existence” (PR §53). In using a thing, I appropriate its universal character, precisely by using up and negating its particularity. Following my taking possession and my use, the third form of relating myself to my property is the alienation and abandonment of my property. In this concluding form, I prove the power and reality of my will precisely by withdrawing from the thing which thereby becomes external again. My ownership of the thing is thus not exhausted by my possession or use of it, but by my capacity to let it go – that I let myself perish as a thing and become free: *resurrection*.

This is the first complication that Hegel introduces into the relation of will and property. The second one resides in the fact that despite first appearances we cannot comprehend the manifestation of the will in the context of property by merely attending to the relation between individual person and thing. The fact that the free will can and must gain existence in an external thing is essentially connected with the fact that the reality of the free will *is* its relation to other free wills.¹³ The existence that the will acquires in the possessed, used, or alienated thing is therefore the existence of the will only insofar as it is essentially its “being for others” (PR §71; §58N): in the thing the free will becomes recognizable, determinable and negotiable for other free beings. For something to be property in the sense of it being an “existence of personality,” it is therefore “not enough” that there is “my inward idea and will that something be mine” (PR §51). Rather, it is required that by means of seizure, formation, or signification I recognizably take possession of the thing: “The *existence* which my willing thereby attains entails its capacity to be recognized by others” (PR §51). This implies, however, that property

has to be more than just “an external thing” that is as such an externality related to other external things (in terms of necessity and contingency) (PR §71). It rather has to actualize itself as the existence of *the will for other wills*. As “the existence of the *will*” the *other* for which it exists is only “*the will of another person*. This relation of will to will is the true and proper ground in which freedom has *existence*” (PR §71). This is why in Hegel’s *Philosophy of Right* there is a necessary transition from property to contract (cf. Kervégan 2019: 124ff.). For it is the form of a contract that allows me to have property not simply in virtue of the relation between my subjective will and the thing, but rather “by means of another will” and therefore ultimately “in a common will” (PR §71).

In the concrete elaboration in the sphere of contract, the two aspects I have just pointed to are finally tied together: first, the relation of property is not about the possession of a specific thing, but about a process that articulates itself in relation to a thing and that ultimately lets go of it; second, the fact that the relation of property is not about the relation of particular thing and subjective will, but actually about mediating the relation of will to will. In the sphere of contract, both aspects are united in the fact that the proper existence of the will is not the thing but its value, and that the actualization of this existence is not primarily the possession but rather the *exchange* of things.¹⁴ Exchange is a way of remaining an owner by ceasing to be one. When I exchange goods with you, I stop being the owner of the thing I exchange but, in the same act, become the owner of a different thing. In exchange, taking possession and alienation are thus united and their opposition is sublated. The contractual relationship thus “implies that each, in accordance with the common will of both, *ceases* to be an owner and yet *remains* and *becomes* one” (PR §74). Property only becomes a truly spiritual relation, once it realizes the unification of the different processual moments of property in one act.¹⁵

Let us look back on the course of Hegel’s account once again: it poses the problem of how a free will can gain existence (*Dasein*). The discussion starts from the natural intuition that a free will can realize itself by placing itself in a thing and thus making it its own. But if we now consider more closely in what way the will manifests itself in the thing, we come to understand that the will would reify itself and sell itself short if it were to simply identify itself with this thing. It thus proves its existence not as a thing, but with regard to a thing: in the taking possession of it, its use, and its abandonment. The will must precisely let the thing it embodies itself in perish in order to be resurrected as a free will. If we consider the account more closely, it becomes clear, secondly, that the proof of its freedom does not arise from the fact that it presents itself simply as master over the thing. Rather, it proves its existence by becoming a will for other wills through its relation to the thing. The true ground of the existence of freedom is not the relation between individual will and the thing, but the relation of will to will mediated by the thing. Thus considered, Hegel begins with a constellation of possessive individualism precisely to show that we must go beyond it. The will that aspires to gain

existence as a thing will have to experience that, on the contrary, it regains its existence by divesting itself of the thing and manifesting itself as a relation to another will.

But does this solve the problem with which we began: the problem that right depends on the rightless as the medium of its own expression and manifestation? At first, this does not seem to be the case. For precisely where the process overcomes the identification of will and thing and passes over the individual thing itself, it requires as its vehicle unfree, non-personal, external things. The fact that the process passes over these things as things only underlines that this process consumes a stream of things in which it manifests itself only to the extent that it goes beyond them.

But this is true only at the first stage of the development, which could be described as the stage of the self-destruction of the possessive notion of property. At the second stage, that of the transition from property to contract, the flow of things no longer appears as an endless consuming and using up of things, the nullity of which must be demonstrated in relation to the free will. Rather, the flow of things appears as a bond constituted by the circulation of exchange. The things as they circulate in this way are better suited to actually embody the existence of freedom. They do not appear as the rightless counterpart of the subjective will, but as the expression of right and as the bond of will and will.¹⁶

In his 1844 *Economic and Philosophic Manuscripts*, Marx has expressed the potential contained in this idea in the following terms:

The *human* character of nature exists only for the *social* human being [*den gesellschaftlichen Menschen*]; for only then does nature exist for the human being as a *bond* with the human being – as its existence for the other and the other's existence for it – and as the life-element of human reality. Only then does nature exist as the *foundation* of the human being's own human existence. ... Thus *society* is the complete unity of the human being with nature – the true resurrection of nature – the accomplished naturalism of the human being and the accomplished humanism of nature.
(Marx 2010: 298)¹⁷

On Marx's account, the resurrection we are confronted with therefore does not concern the resurrection of the will at the expense of nature. Overcoming the reification and domination model of property enables the true resurrection of *nature* itself.

7.3 Self-Ownership

According to my reading, then, Hegel introduces the idea that the free will can prove its existence by its unilateral mastery over the rightless only to expose its inherent contradiction and to lead us beyond it. Hegel's account is not a defense of, but a *reductio* of the idea that the reality of right consists in

the domination of the rightful over the rightless. The problems with this idea are demonstrated not only with regard to our relation to inanimate things external to us, but even more sharply with regard to the relation between the will on the one hand and its life and body on the other.

This relation is initially presented by Hegel in perfect congruence with the model of the relation of rightful person and rightless thing. However, by considering the relation between my will and my body and life more closely, Hegel not only leads this idea *ad absurdum* but at the same time unfolds another notion of property that reflects a different understanding of the manifestation of the will in external existence. This other model of property is the ownership of myself or self-ownership, which I have (i) not through self-opposition and self-mastery, but through self-appropriation of my existence; a property which I furthermore have (ii) not against the other, but originally only through the other. In the relationship to our own body and to our own lives, it becomes clear how what may at first appear to be unfree, non-personal, rightless, and external to our freedom can itself have a right – a right even that trumps the right to own things.

At the beginning of his discussion, Hegel defines the thing in general as that which is “external to freedom” (PR §40), in order to then add that my body and my life also belong to the class of things so defined. Apparently fully in the spirit of his note to §39, that the human being is master over everything in nature (thus also: himself as nature), Hegel emphasizes that the human being, unlike the animal, can mutilate and kill itself. It seems, then, that Hegel suggests that the freedom of the will is documented precisely in the capacity to treat one’s own body and one’s own life as a thing (or, as I would be inclined to say, *reduce* one’s own body and life to a thing).

Against this background, however, it must be surprising that Hegel, while asserting that the human being has a right *to* its body and a right *to* its life (PR §47N, §47A), at the same time denies that this means that the human being has a right *over* its life: “I, as *this* individual, am not master over my life, because life, as the comprehensive totality of my activity, is nothing external to personality” (PR §70A). I take this to suggest that Hegel wants to avoid at least one of the consequences I described at the beginning as troubling: that my self-relation becomes one of domination over myself. He aims to show that the will does not manifest its freedom through domination over itself as a thing, but that the proof of a free will rather lies in its very capacity to overcome this false conception of itself and embrace its body and its life in a different manner. This comes out in the details of his elaboration, even where they first seem to suggest a domination model.

One passage that suggests such a domination model is Hegel’s treatment of our capacity to own other living beings. In developing the absolute right of appropriation, Hegel states that the class of entities we are entitled to appropriate also includes living things in general and animals in particular: “A living thing (an animal) is external to itself” in just the way that other things are external to themselves, that is to say: it has no substantial end in itself.

To the extent that the animal is external to itself in that way, the animal can itself be considered as “a thing” (PR §44A). The pre-eminence and majesty of the will that I can manifest through appropriation can thus not only be demonstrated vis-à-vis inanimate things but also in view of living things: “As my property, I give to the living being a soul other than the one it had before; I give to it my soul” (PR §44A). By doing so the free will demonstrates its idealism “which does not take things as they are to be in and for themselves” (PR §44A).

Remarkably, however, Hegel immediately adds that this kind of idealism is already present in the animal that through its process of assimilation demonstrates its capacity to appropriate its world and supersede the myth of the given. This is just as telling as the fact that Hegel does not say here of animals that we, by taking possession of them, lend them a soul for the first time, a soul which they as mere things did not have before. Rather, he is talking about our giving them a different soul than they had. *So they already had a soul*. Thus, one should have great doubts about whether Hegel’s assertion that we can possess living beings as things in just the way we own non-living things is really consistent with his own conception of the animal.¹⁸ As Terry Pinkard has shown in *Hegel’s Naturalism*, Hegel’s considered account from the *Philosophy of Nature* is actually not in line with saying that the animal has no substantial end in itself, that it possesses no self-relation, and is simply “something external to itself.” What distinguishes humans and animals is not that the animal has no ends and thus no reasons, while the human being does, and that humans relate to themselves while animals do not. They are rather to be distinguished in terms of “the *kind* of self-relation” (Pinkard 2012: 29) which they each maintain and the distinct ways in which they both relate to ends (Pinkard 2012: 26). This would suggest that the relation of animals to the domain of right may well be fundamentally different from the human being, but that the relation of right and animal cannot just be the relation between right and rightless thing.¹⁹

The inadequacy of this domination model is even clearer when we turn to our relation to our own bodies and lives. Even though Hegel at first counts them in the class of rightless, non-personal, unfree things, his further elaboration makes clear that I cannot possibly understand the appropriation of my body on the model suggested by the appropriation of things. Even insofar as my body is merely “immediate existence” and therefore not yet “adequate” to spirit (PR §48), I am, in some way, already present and alive in it. The immediate existence of the body thus cannot be understood as a dead machine or puppet my will comes to animate but is always already ensouled. Even if it may be true that to actualize my free will, I still have to make my body mine in a deeper sense, as Hegel argues in §48, this can therefore neither happen by giving a soul to a thing that is in itself soulless nor by soul swapping, substituting my soul for the soul that originally inhabited that body. Taking possession of my body must mean something quite different: gaining a deeper relationship with myself, the soul that already dwells in it. In §47, Hegel writes:

As a person, I am myself an *immediate individual*; in its further determination, this means in the first instance that I am *alive* in this *organic body* which is my undivided external existence, universal in content, the real potentiality of all further-determined existence [*die reale Möglichkeit alles weiter bestimmten Daseins*]. But, all the same, as person, I possess *my life and my body*, like other things, only *insofar as it is my will*.

(PR §47, my emphasis)

In the case of the body, therefore, I do not take possession of a soulless external thing, but I am already alive in this body, which is the real potentiality of all further determined existence of myself. For it to be the case that I do not just happen to find myself in this life and this body, but that I *have* them and own them expressly, it is necessary that I appropriate my body and my life willingly and make them mine. However, this precisely does not mean that I exchange the soul of my body and my life for another, but that I must seize and comprehend them as mine.

The ownership of my body thus differs in a significant way from the ownership of external things. This is shown not least by a remarkable reversal in the extent to which the body is *for others* immediately the existence of my freedom. While I may immediately inwardly represent some external thing as mine, work and effort is required to take possession of it in such a way that the external being of the thing becomes my being for others. In the case of my body and my life, strangely, it is the other way around: “For *others*, I am essentially a free being [*ein Freies*] in my body, as I have it immediately,” as Hegel says in §48, that is to say: *independently of my actual attempts to spiritually appropriate and take possession of my body*. Whereas in the case of my external possession, an inner act of taking possession precedes the external one, in the case of the body, the external recognition of the possession precedes the inner act of appropriation. *Through others*, then, I am already recognized as the “possessor” or “owner” of my body and my life even before I expressly *have* them; I am recognized as such in the sense that I am their only possible owner.

I thus owe my own body and my own life to others, not to myself. It is precisely through and in the eyes of others that my body and my life always already seem to be more than an indeterminate thing on which I first would have to put the stamp of my free will. Rather, in the eyes of the other, they are the immediate presence of the potentiality of my free existence. In the remark to §48, Hegel writes that “I am, qua free being, alive in this body [*Ich als Freies [bin] im Körper lebendig*]” (PR §48R). I am thus not free by having the ‘power of disposition’ over my life, I am alive *in it* as a free being. The act of taking possession that is needed to make the body adequate to spirit, therefore, cannot consist in the sovereign rule over it, but only in seizing my body: in a thoroughgoing formation that expands the life freedom can lead in it. This taking possession does not aim at a domination of or mastery over my body or my life, but, as Hegel puts it elsewhere, at “the raising of the given

to something self-created [*Heraufheben des Vorgefundenen zu einem Aus-sich-Erschaffen*]” (PR §123A).

This other way of appropriation and taking possession, which my body and my life require in contrast to my external possessions, corresponds with another relationship to alienation. While alienation and abandonment belong to an appropriate relation to the thing, since it is ultimately an inappropriate form of existence for my spirit and my unilateral domination of it is an insufficient expression of my right, I cannot and should not divest myself of and let go of my body and my life in the same sense. If my body is “the real potentiality of all further-determined existence” (PR §47), which I can gain as a free person – or in the words of the Federal Constitutional Court of Germany: if human life may be considered as the “vital basis” of human dignity²⁰ – then I cannot dispose of my life like a thing.²¹

According to Hegel’s determination, the person thus has a right to her life – can claim this as the vital basis of her dignity and demand its protection – but has no right *over* this life. For if the person considers herself to be independent of and above her life, then she considers herself to be above herself: “It is a contradiction to speak of a person’s right over his life, for this would mean that a person had a right over himself. But he has no such right, for he does not stand above himself” (PR §70A). The person does not stand opposed to her body and her life as a disposable existence; they are herself in a certain guise: “the real potentiality of all further-determined existence.” As our understanding of this vital basis changes, we may come to understand better how internally this vital basis itself depends on the ecological systems of its enabling. To the extent that this is the case, we might ask whether to elevate ourselves above these ecological systems is not also to elevate ourselves above our own potentialities.

7.4 True Right Against Formal Right

While Hegel’s account of our ownership of things shows that mere possession of and identification with a thing ultimately turns out to be an inadequate form of the will’s existence that requires us to let go of the thing, his account of the way in which the freedom of the will is alive in its body points us to a mode of self-ownership that is a permanent possibility and task and as such remains precisely inalienable. In both respects, it becomes clear that exclusive ownership of an external thing is a severely limited form of the existence of the free will, which must be overcome precisely for the sake of the realization of that free will.

When the course of the liberation of spirit consists in its freeing itself “from all the forms of its existence [*Dasein*] which do not correspond to its concept” (ENZ III §382A) and when we can ascribe to the liberation of spirit “the highest and absolute right” (ENZ III §550), then it is not just possible but *right* to go beyond a stage where the reality of freedom appears merely as the private ownership of things. At a much-discussed later point in his discussion

in the morality chapter, Hegel directly connects the two issues we have been discussing: In the figure of the right of distress (*Notrecht*), Hegel characterizes a specific constellation in which it becomes evident that the right to life puts a limit to the right of property: Where an individual violates the property of someone else to prevent danger to themselves, their action should not only go unpunished but is in fact in accordance with right. Seen from the other side: where the insistence on my right to do with my property as I please and to be free of any interference by others is in conflict with the life of another, my property rights have to give way.

The *particularity* of the interests of the natural will, taken together as a simple totality, is personal existence as *life*. In *extreme danger* and in collision with the rightful property of someone else, this life may claim (not in equity [*Billigkeit*] but as a right) a *right of distress* [*Notrecht*], because in such a situation there is, on the one hand, an infinite injury to someone's existence and thereby total rightlessness, and, on the other hand, an injury only to a single restricted existence of freedom, whereby both right as such and the capacity for rights of the injured person, which is only affected in *this* property, continue to be recognized.

(PR §127)

Even if we are dealing here with a right that makes itself known only in an extreme situation – in extreme danger – it is noteworthy that we are not dealing here with a temporary *suspension* of right, but, as Hegel points out, with a “*true right against formal right* [*wahrhaftes Recht gegen formelles Recht*]” (PR §127N, my emphasis), a “right against abstract right” (PR §127A). When someone steals in order not to starve, we are not confronted with an act that is strictly speaking against the law but should still go unpunished due to extenuating circumstances. On Hegel's view the action is genuinely *lawful* on the basis of the right of distress.²² It is a question here of “*right against right*,” because with a danger to the life and the body of a free being there is the threat of “an infinite injury to someone's existence and thereby total rightlessness” (PR §127). Enforcement of the individual person's special property right would thus in this case threaten *the life and body of right* as such.²³ It is, at the same time, a question of “*right against right*” – more precisely a right against *abstract* and *formal right* – since a certain form of right, which is informed by the ownership of rightless things, reaches its limit here. The limit it reaches is not external, marked by a separate good that needs to be weighed against the good of having my rightful property respected. The limit it reaches is internal to the very notion of right.²⁴ If abstract right would assert itself in a situation of distress, it would undermine its own material conditions: it would question the real possibility of the person that is itself the subject of abstract right. With the right of distress Hegel thus belatedly reveals the *internal* tension that was present in the notion of abstract right all along.²⁵ Thus, in the right of distress human life manifests itself as the source of a right against right. For Hegel,

then, human life not only provides the basis for a “right to have rights,” which is according to Hannah Arendt the only human right, but also the basis for a “right against rights.”²⁶

This “right against rights” is not limited to the defense of my bare life in a state of emergency but has a much more far-reaching scope as Hegel makes clear in the remark to §127:

From the right of distress arises the benefit of competence, whereby a debtor is permitted to retain his tools, agricultural implements, clothes, and in general as much of his resources – i.e. of the property of his creditors – as is deemed necessary to support him, even in his accustomed station in society.

(PR §127R)

So even though the creditor may argue that a debtor that has failed to pay her dues owes the creditor all of her belongings, the *beneficium competentiae* asserts the right of the debtor to demand that the creditor does not take away from her what she needs to sustain herself. This does not just concern her sheer biological existence (such that she could not owe the creditor a pound of her own flesh), but it concerns the necessary means for the specific civic form of life that she leads. Hegel mentions the tools and clothes, but nothing seems to exclude that the natural basis or environment the debtor has to rely on for her specific form of life should not be taken away from her as well, even if it could be considered the property of the creditor. On Hegel’s account the *beneficium competentiae* includes even the right of the debtor to maintain a certain status in society and in that sense should prevent them from being robbed of their specific *form* of life.

The right of distress thus reveals a much more far-reaching concern for sustainable living conditions that the realm of right needs to integrate and that puts limitations on the right to private property. Hotho’s lecture notes on Hegel’s *Lecture on the Philosophy of Right* from Winter 1822/1823 present the tension between life and abstract right that a developed form of right would have to integrate and overcome in an especially pronounced form:

The distress [*Unglück*] of many could be remedied with small means, which, however, are the free property of others. Thus one sees the struggle of distress [*Not*], and close beside it the means that would be able to remedy it; but both are separated by an unsurpassable gulf. This gulf is right, whose contradiction against welfare [*Wohl*] is not a mere casuistic collision, but an ever-present and necessary contradiction, and most conspicuous in developed society.

(GW 26, 2:887)

We are here confronted with a restricted understanding of right, where right itself becomes the gulf separating human beings from the means they need

to sustain themselves. The right of distress, however, makes clear that what here appears as a conflict between right and welfare is the conflict between two shapes of right, a conflict *internal* to the notion of right. Thus, it makes us aware that right needs to overcome a form in which it itself becomes the gulf separating human beings from the means to sustain their lives.

The “right of distress” thus points both backward and forward: it belatedly reveals the internal tension and limitation of abstract right and it points ahead to the higher realization that freedom will find through ethical life in the living good. If life is the form of personal existence and thus the very condition of right as such, the acknowledgment of this fundamental condition of right requires more than an exceptional right to defend my bare life by violating the rights of others in a situation of urgent emergency. It requires that the realm of right is so ordered that distress does not become a normal condition and that right does not become the gulf itself that stands between distress and the means to remedy it. For right to take such a form, we cannot rely on the sphere of abstract right alone or on the interventions by morality but require a differentiated ethical life, in which the institutions of family, civil society, and the state enable a life that is the ground and reality of right.

In the context of ethical life, the role of property is fundamentally transformed in multiple ways that I can only briefly indicate here. In the course of unfolding the infrastructures and forms of ethical life, property is fundamentally recast in terms of “resources” [*Vermögen*].²⁷ It first appears in the resources of the family. In this form, my belongings are not conceived of as private property in the sense of an exclusive manifestation of my very own will. Rather, the “selfishness of desire” is here transformed into the “care and acquisition for something common” (PR §170). This determination of property as a resource is also fundamental to civil society, both in the form of the individual’s resources, which here as such become the object of the administration of justice (PR §217), and in the form of “the *universal permanent resources*” (PR §199), which consist in “the complex interdependence of each on all” (PR §199). In the form of provision and corporation “the *ethical* [*Sittliche*] returns to civil society as something immanent in it” (PR §249), which finds its full realization in the “universal life” of the state (PR §258). In this ethical life, rights and duties do no longer come apart in such a way that my right is your duty, your duty is my right. Rather, in ethical life my right is my duty, and my duty is my right: In the ethical

as the interpenetration of the substantial and the particular, my obligation to what is substantial is at the same time the existence of my particular freedom. This means that in the state duty and right are *united in one and the same relation*.

(PR §261A; cf. Moyar, 2022)

The right, therefore, does not emerge from the fact that I have an arbitrary power of disposal over a property which others must tolerate because my

property obliges them. Rather, my right is my own duty: my obligation to safeguard the rights, goods, and values in which my own will is expressed.

Insofar as it is true that in the right of distress it becomes evident that we must transcend the order of abstract right as such, it transpires that the other form of property, which Hegel explains in terms of the self-ownership of my body and my life, points beyond the form of abstract right itself and towards the concrete actualization of an ethical life. At the same time, however, according to Hegel's account, abstract right does not just dissolve, it is not just abolished on the way to ethical life. Rather, abstract right – just like morality – is supposed to be reconstituted as a moment of ethical life and as such attains a new role in governing civil society. If this is correct, then we should expect and demand that abstract right, as the law of civil society, gives voice to the internal limitation within itself: through rights against abstract rights.

Hegel only presents one specific right in these very terms – as a “right against rights.” And the one “right against rights” he elaborates upon seems quite limited, incapable of capturing the whole scope of counter-rights needed here. It is limited, firstly, insofar as it is an *exceptional* right tied to the urgency of an extreme situation. Secondly, it is an exclusively *individual* right, enabling a *specific individual* that happens to be endangered, but not constituting a community of those in need. In this sense, this “right against rights” does not concern a more general entitlement to sustainable conditions of living, independent of immediate threats to survival, and it does not concern our collective and shared right to such conditions. If the right of distress concerns the “infinite injury of existence and thereby total rightlessness [*unendliche Verletzung des Daseins und darin die totale Rechtlosigkeit*]” (PR §127), however, then what is at issue in the right of distress is equally under threat where the possibility of our common coexistence and survival is in danger and where the “the *universal permanent resources*” that consist in the modes of our social interdependence are under threat. In this sense, the right of distress seems insufficient to reflect the full scope of the “right against rights.”

7.5 The Body of Right

Let me close by very briefly returning to the current concerns with which I started. If indeed there were to be rights of the environment, then, our considerations up to this point have suggested, they too would have to have this character and be reflected in this form: through rights against abstract right. Hegel has not provided us with any concrete suggestions about what precise form such rights against rights could or should take, and he has not even specified in depth how the notion of abstract right is to be reframed once we understand it as a moment of ethical life.²⁸ But what he has done very convincingly, or so I have tried to show, is to develop the idea of property up to the point where it internally reaches this limit and to make us aware of the task of overcoming the abstract opposition of right and rightlessness it is based upon. Beyond this critical point, he has further directed our attention

to the fundamental fact that the realm of right requires a body and that this puts restrictions on the very rights it can grant. The “right against rights” that comes out in the right of distress, is not the right of a person qua being a subject of abstract right, but in a certain sense, it is the right of the body or the life of that person: the right of the very condition that enables the subject to constitute itself as a person of right. The right of distress confronts us with the insight that right needs a body which is the mode of its realization. This body is neither the abstract subject nor the mere object of right, neither the pure rightful will nor the rightless thing, but something else. It is the objective side of the subject of right. Such a body of right cannot itself be owned as private property and it makes demands that limit property rights on other objects. The body as such, taken abstractly, may have no right of its own, but as the body *of a person* it comes to have rights of its own that can come into conflict with the rights of persons, including the one it is embodying.

By pointing us to the notion of a body of right, Hegel discloses a dimension of the realm of rights we need to elaborate on if we want to address the pressing issue of environmental rights I have started with. Rather than suggesting that we should just widen the circle of legal persons to include other non-human entities, Hegel invites us to consider questioning the abstract opposition of subjects and objects of rights and encourages us to elaborate on a third dimension: the body of right.

Notes

- 1 High Court of Uttarakhand at Nainital, 126/2014, Order v. 20.3.2017, Rn 19 f.
- 2 See Complaint for Declaratory Relief, submitted to the US District Court Colorado on September 25, 2017, 2, my emphasis; <https://is.gd/89WBVQ>.
- 3 Complaint for Declaratory Relief, 2ff.
- 4 This motion was submitted after the Senior Assistant Attorney General for Colorado threatened the plaintiff attorney with sanctions under Rule 11 of the Rules of Civil Procedure, which allows U.S. District Courts to sanction attorneys for “pleadings with improper purpose or frivolous arguments.”
- 5 With regard to the broader context, expounding the thesis that sustainability is to be considered as “a fundamental principle of political morality on a par with justice and democracy” see Bernstein (forthcoming).
- 6 “The Colorado River Ecosystem is best understood as a complex collection of relationships. [...] These relationships are nearly infinite. The most fundamental include the attraction between hydrogen and oxygen; the liquid, ice, and gas that water and heat create together; the irresistible paths fashioned by the interplay of mountain and gravity; and the climate born from the intercourse of the Sun’s energy and Earth’s atmospheric gasses” (Complaint for Declaratory Relief, 3).
- 7 The aggregative, non-organic character of this entity explains why it is typically not considered in analogy with natural persons, but rather with artificial persons like corporations: “Corporations have Rights. Why shouldn’t Rivers?” (Turkewitz 2017).
- 8 With regard to these challenges and especially in relation to the essential role that new forms of representation by proxy have in this regard see Fischer-Lescano (2020), Trüstedt (2022).
- 9 Let me just note in passing that I have certain worries about this solution. I do not doubt that it can be a very effective tool in leveling the playing field in

the current situation, as it equips the endangered environment with rights of action. However, my concern is that this response does not adequately reflect the peculiar normative status of non-personal nature that I will try to develop in the following. In addition, I agree with the general worry that an unlimited expansion of the notion of legal person would undermine the essential nexus of right and autonomy, i.e. the notion that a realm of right has its source in beings that are bound by laws to the extent that they themselves can be considered as their authors. – I think that instead of merely expanding the circle of entities that can show up as personal subjects of rights, we need to fundamentally reconceive what it means to be an object of rights and modify our understanding of what it means to have legal hold of something such that this legal relation is no longer understood on the basis of a domination model.

- 10 I will refer to Hegel's writings by means of abbreviations listed in the reference section. I have occasionally modified the referenced English translations (Hegel 1991, 2007, 2008) to highlight aspects of the German text that seem crucial to me in the context of this paper.
- 11 Second emphasis added. The German original reads "Die Person *muß* sich eine äußere *Sphäre ihrer Freiheit* geben, um als Idee zu sein."
- 12 First emphasis added. The German original reads: "Bestimmung, daß Ich als Sache, Natur, *untergehe*, und *frei* werde, – auferstehe – dies meine Bestimmung."
- 13 On the notion that a free will is its relation to every other free will, see Rödl (2021) and Khurana (2021). For the Fichtean background of the thought that the concept of right is based upon the relation of will and will, see Fichte (2000: 51):

The concept of right is the concept of a relation between rational beings. Thus, it arises only under the condition that rational beings are thought in relation to one another. It is nonsense to talk about a right to nature, to land, to animals, etc., considered only on their own or in direct relation to a human being. Reason only has power – and by no means a right over – these things, for in this relation the question of right does not arise at all. ... Only if another person is related to the same thing at the same time that I am does there arise the question of a right to the thing, which is an abbreviated way of talking about – and this is what it should really be called – a right in relation to the other person, i.e. a right to exclude him from using the thing.

- 14 With regard to the fundamental role of exchange (especially in reference to Hegel and Mauss) see Quadflieg (2019).
- 15 See Brudner (2013: 82ff.).
- 16 Siep (2022) argues that Hegel's conception remains committed to a neo-Platonic account involving the inferiority of nature and the "sovereignty of spirit over nature" (Siep 2022: 89), to such an extent that it becomes impossible for Hegel to conceive of the "mutual inclusion" (Siep 2022: 95) of nature and spirit. Whereas I agree that the obstacles Siep identifies are present in Hegel's account, I believe Hegel gives us the resources to overcome a domination model as well. Hegel's account ultimately shows that spirit does not realize its highest determination by ruling over nature or by grasping nature merely as an inferior imago of spirit; spirit's highest determination requires that it acknowledges and sets free nature's genuine otherness, freely releasing itself from itself as nature. For more on this line of understanding Hegel's dialectical naturalism cf. Khurana (2017a: 207ff., 506ff.).
- 17 For a reconstruction of Marx's dialectical naturalism as it comes out in this passage, see Khurana (2022).
- 18 On Hegel's rich conception of animal subjectivity, see Pinkard (2012), especially Chapter 1; and Khurana (2017a), especially Chapter 4.

- 19 Showing that the living being actively pursues ends, is an “end in itself” (Pinkard, 2010, 27), and maintains a form of self-relation certainly does not, by itself, make it impossible for Hegel to hold the view that human beings qua persons are still entitled to subordinate the ends of the living being to their own conscious ends. However, one cannot think of the human prerogative as the right of the rightful over the rightless and cannot justify the human entitlement simply by means of the soulless nature of the living. Thanks to Ludwig Siep for pressing me on this point.
- 20 See BVerfG, Judgment of the First Senate, February 15, 2006 – 1 BvR 357/05 –, Rn. 1–156, Abs. 119 – http://www.bverfg.de/e/rs20060215_1bvr035705.html.
- 21 This is not to say that I cannot or shall not under any circumstances take my own life. As noted before, Hegel believes that it is a mark of distinction of the human being that it is able to act against its own life; and he further suggests that there are conditions in which it is actually right to do so. But I cannot and shall not dispose of my life as a thing, as an object of my Willkür (PR §66N). In taking my own life, I relinquish my own free existence. Such an act cannot be justified simply as the demonstration of the will’s sovereign power over its own body and life, but is a much more precarious, truly self-contradictory act that requires a different rationale. On Hegel’s own account, it can only be justified as a sacrifice for the sake of our shared ethical life.
- 22 Hegel’s insistence that the right of distress is a true right, not a question of equity, is a retort to Kant’s treatment of the issue in the “Appendix on Ambiguous Right” in the *Metaphysics of Morals*. Elaborating a different paradigm case of *Notrecht* (taking another life to save my own; for Hegel’s position on that specific case see GW 26, 1: 66, Kant concludes that *Notrecht* is not a true right but a case of ambiguous right akin to equity [*Billigkeit*]. The act supported by *Notrecht* may be unpunishable but “there could be no necessity [Not] that would make what is unlawful [*unrecht*] conform to the law [*gesetzmäßig*]” (Kant 1996: 6, 236).
- 23 On the tendency of abstract right to abstract from the body and on the surprising recency of the idea of the body as a fundamental moment in French and German law, see Heller (2018: 287ff.).
- 24 This comes out with special clarity in anonymous lecture notes on Hegel’s 1821/1822 lecture on the Philosophy of Right: “Life is totality, and in the opposition of right against life right is in collision with itself” (GW 26, 2: 673).
- 25 The fact that this discussion does not arise in the chapter on abstract right itself, but in the morality chapter has led some readers to assume that the conflict is an external one and arises because Hegel introduces another, separate relevant good, namely welfare (*Wohl*), which has to be balanced against the demands of abstract right. Hegel is thus taken to articulate the need for weighing different legal goods against each other, typically understood on the basis of a utilitarian model (on the objections against construing Hegel’s argument along these lines see Küper (2017)). What he is actually doing, however, is developing an internal tension in the notion of right, already present within the bounds of abstract right as such. Welfare is only relevant in the first place insofar as it concerns the very existence of a free person (“Das Wohl hat nur Recht als Dasein eines Freien”, as Hotho’s lecture notes (GW 26, 2: 887) put it). And only to the extent that welfare concerns the very possibility of right does it gain the ability to challenge the demands of abstract right and to develop the force it attains in the right of distress. Whereas my reflections on my own particular welfare or the particular welfare of others as such always have to give way to the demands of abstract right, there is a “higher collision” between life and abstract right (GW 26, 1: 397). Thus, Hegel

distinguishes the undeniable claim made by the right to life from the limited purchase of reflections on my or your specific welfare (cf. PR §127N where Hegel points out that life refers to the “particularity in its totality”, “the real side of personality itself” and is not “merely a universality of reflection” like welfare or happiness (as defined in PR §123)). Even though we can in fact describe the right of distress in some sense as articulating the opposition of welfare and right, it is “welfare” under a very specific description. As Homeyer’s lecture notes helpfully put it:

The right of distress is, too, the opposition of welfare against right, but of welfare in the abstract universality wherein it is life itself, the extent of all modes of reality. Life has this right against right, because freedom must not surrender to the particular right of an individual.

(GW 26, 2: 280)

- 26 On Arendt’s conception of the right to have rights see Arendt (1958: 290ff.); Khurana (2017b); Pinkard (2018b: 276).
- 27 The German term ‘Vermögen’ is not easy to translate here: compared to property, it, firstly, does not direct our attention to an individual thing we may own but to the totality of my ownership; secondly, it qualifies what I own as valuable; and, thirdly, it has the connotation of power, capacity or faculty, which is reflected by the term typically used in English translations of the *Grundlinien* (‘resources’). On the related contrast between “private property” and “entitlements to social wealth” in Hegel see Brudner (2013: 89).
- 28 On the ways in which civil society, which is deeply structured by abstract right, is not enabling but making impossible the realization of freedom cf. Pinkard (2018a, 2022).

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Part 3

Ethical Life



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8 The Institutions of *Sittlichkeit*

Jean-François Kervégan

A free life is a rational life, even if freedoms brings in its wake all sorts of other things that one otherwise might find deplorable.

(Pinkard 2012: 185)

This paper intends to highlight the inherently institutional character of Hegel's theory of *Sittlichkeit*, and to specify the understanding of the institutions that it involves; it is therefore inscribed in the framework of institutionalist readings of Hegel. I suggest a "weak" or flexible conception of institutions, whose equivalents can be found in certain legal theories (such as Maurice Hauriou's, Rudolf Smend's, or Neil MacCormick's) and diverse contemporary views in social ontology (for example Searle's theory of institutional facts, Philip Pettit's conception of collective intentionality, Margaret Gilbert's conception of joint commitment, and Vincent Descombes's idea of the "institutions of meaning"). This institutional reading of Hegel thus resolutely inscribes the theory of *Sittlichkeit* in what Pettit calls "the broadly tradition of social holism" (Pettit 1996: 167).

The question of Hegel's "institutionalism" or "institutional turn" has been the subject of significant discussions, especially since Dieter Henrich took it as the focus of his reading of the theory of objective spirit (Henrich 1983).¹ But if there seems to be a broad agreement on the importance of the institutional setting of Hegel's practical philosophy, and thus on the "sociality of reason" in Hegel, it seems to me that the discussion is often based on a too narrow concept of what an institution is, corresponding to the usual idea we have of "big" institutions such as State, Church, University, etc. Now, if we turn to theorists, mostly legal scholars, who define themselves as institutionalists, we find that the concept of an institution that they use is both broader and more flexible. I will thus try to explain the significance of Hegel's institutionalism by relying on an extended, and more complex, conception of what an institution is.

8.1 What Is an Institution?

Before turning to Hegel's work, let's try to set out a conception of the institutions that draw freely, amongst others, on certain views of the French

legal scholar Maurice Hauriou, and on Friedrich Carl von Savigny's theory of *Rechtsinstitute*. Although the conservative Savigny was a political enemy of the liberal Hegel, his conception of legal institutions can provide some insight into the philosopher's views.

Using a non-Hegelian language, I would suggest the following stipulative definition of an institution: an institution is a normative system that durably regulates the actions of individuals or groups to whom it allocates a status and/or a role, often in an informal way; these actions are themselves directed to a certain goal (to a "guiding idea," as Hauriou calls it), that is defined objectively, in the sense that it does not depend on the representations and expectations of the individuals and collectives at stake. An institution can (but not necessarily must) be organized according to explicit rules ("statutes" or "regulative rules," in John Searle's vocabulary) (Searle 1995, 27–8).² Unlike "brute facts," its origin is not to be found in a natural event but in what Searle calls a "constitutive rule" (Searle 1995, 44–5),³ which means a social rule. This rule can be either a real one (when the institution is socially established) or a mythical one (if its creation is attributed to a non-human authority); it can also be the result of the operations of other institutions. Finally, under some conditions, an institution can, according to certain characteristics commonly attributed to individuals, such as "personality" or "will," have a quasi-individual character: this is the case of what Hauriou calls "institutions-personnes" (personified institutions), distinguishing them from "institutions-choses" (thing-institutions) (Hauriou 1986: 96–7). Things-institutions, such as property or marriage, have only an objective individuality, whereas in institutions-persons, such as associations, the individuality "moves to the subjective level" (Hauriou), thereby endowing them with a "moral" personality. It is important not to confuse institution and personified institution, and not to value the sole "subjective" dimension of the personality to the detriment of the basic objectivity of an institution.

Let us now explain these various elements. First, institutions always have, if not a normative purpose, at least normative effects: they prescribe, prohibit or authorize classes of acts that will be regarded as good, harmful, or acceptable. In other words, institutions are generating some "ought-to-be." Second, an institution is an Idea made into a thing or an act; Hauriou says that it is structured according to "the idea of the work to be performed in a social group" (Hauriou 1986: 98). But this idea has an "objective nature," which means that it is not the idea that someone or a group of empowered people would have but an idea having an existence *per se*; as Durkheim says, it has "its own existence, independent of its individual manifestations" (Durkheim 1999: 14). The third characteristic of institutions is their steadiness. Their origin is often buried in the dark ages; in traditional societies, it can only be described in the language of the myth and in the rituals through which these societies secure their identity by sacralizing the most essential institutions (PR §203; GW 14, 1:171). An institution is not "made" by anyone; it is, we should believe, always there. Fourth, acts performed within the framework

of an institution are ritualized, as can be seen in ancient Roman law, where the validity of a legal act was dependent on the pronouncement of certain standard formulas; as Hauriou says, these are “procedural operations [*opérations à procédure*]” (Hauriou 1916: 137). This proceduralization prevents using the fiction that behind every act, especially behind every collective act, there is an intention that holds its meaning. Actually, the act in question is embedded in an institution that gives it a meaning regardless of the subjective goals that the agent is following; this is what Hauriou calls “acceptance of the fact” (Hauriou 1916: 138). To recapitulate: as a culture-made nature, social institutions belong to the “second nature” in Hegel’s sense (PR §§4, §151; GW 14, 1:31, 141); their existence is obvious, so to speak invisible, a framework that is presupposed by all meaningful action. In Hauriou’s words, the institution is a kind of “objective soul” (*âme objective*) refracted in each individual. (Hauriou 1986: 108). “Embedded in the things that are surrounding us,” an institution is, in a way, an idea-made thing. Thus understood, the “institutionalist” concept of institution is very near to what Hegel calls objective spirit, meaning a spirit embedded in the customs and practices of men before being integrated into their conscience. Such a spirit, embodied in a collective way of being, speaking, and acting, is, in Hegel’s words, not so much what men *have* in their brains as what they *are*. However, an institution is not some kind of anonymous “machine” that overwhelms or squashes individuals, but a coordination mode of their actions, to which it gives an objective meaning, independent of the representations and aspirations of the subjects, while also contributing to their shaping. The point is that institutions, “big” or “small,” massive or invisible, generate individuality, or singularity, rather than repress it.

What about *legal* institutions now? To explain it, let us start with an example: Friedrich Carl von Savigny’s conception of *Rechtsinstitut*.⁴ At the start of his massive *System des heutigen römischen Rechts* (1840), Savigny defines the key concepts of *Rechtsverhältnis* (legal relation) and *Rechtsinstitut* (legal institution). The legal relation, which has an “organic” nature (i.e., is part of a functionally coordinated whole), is the basic legal reality. But this notion itself is linked to the even more basic concept of a legal institution, for example, ownership. Savigny explains:

Each legal relationship is dependent on a corresponding legal institution (*Rechtsinstitut*), which is its type, and is ruled by it in the same way as the judicial decision is ruled by the legal rule.

(Savigny 1840: 9–10)

Hence the following definition of law: the law is the system of legal institutions which allow the ascription of rights in a given legal relationship. The characteristic feature of the legal institutions is that they have no factually definable origin: the law always presupposes itself. To say it by the way, this conception of law is in anticipation of what Heidegger and then Gadamer have called the hermeneutic circle (Heidegger 1993: 148, 310; Gadamer

2004: 267). Law, as a system of institutions, involves a dynamic circularity that makes it impossible to see anything as original or given; the institutions of law must be seen as always already there, even if this is factually inexact. Like Hegel's *Sittlichkeit*, social and legal institutions in Savigny's sense belong to a "second nature."

We can call "institutionalism" a social theory that grants a major explanatory force to such conceived institutions. Generally speaking, the purpose of institutionalist theories of law (which are themselves very diverse: there are "strong" and "weak" kinds of institutionalism...) is to elude the common alternatives between legal positivism and natural law, and between objectivism (primacy of law) and subjectivism (primacy of rights). This is also, in my opinion, the purpose of Hegel's theory of objective spirit, and more particularly of his conception of ethicality (*Sittlichkeit*), which I would describe as an institutional theory of living together.⁵ However, to meet an obvious objection, it should not be thought that institutionalism is intrinsically conservative or even reactionary, even if its proponents have often been so. In fact, because they are "subjective machines" as much as objective arrangements, institutions can produce subjective dispositions that contribute to their own transformation, as seen during great revolutions (like in the United States, and France).

8.2 What Is *Sittlichkeit*?

It is obvious that Hegel's theory of the objective spirit ascribes an important role to institutions. But does this make it an "institutionalism," and if so, of what kind? In particular, how does this characterization apply to the theory of *Sittlichkeit*? What does this mean for the kind of normativity at work in this field?

Regarding *Sittlichkeit*, it is important to avoid confusion. Despite its appearance, it is not a "part" of objective spirit, which would be juxtaposed to other parts, abstract law and morality; in some ways, it is identical to it. In fact, only ethicality exactly conforms to the definition of the objective spirit. The specificity of *Sittlichkeit*, as the "self-conscious *freedom* that has become *nature*" (E §513; GW 20:495) lies in the fact that it is not, like *Recht* and morality, "abstract," but "concrete," in the sense that it is a set of institutions (those of family, civil society, and the state) with both a subjective and an objective side. Ethical institutions (for example marriage, or the corporation, but also more 'invisible' institutions such as the market or language) are objective configurations lived by individual subjects whose identity is built through the active connection they have with these institutional structures. Reciprocally, these institutions require a specific commitment to subjectivity: they are actual only through the agency of these subjects and their inner dispositions, for example, the "political disposition" (*politische Gesinnung*) of the citizens (PR §268; GW 14, 1:211). Therefore, ethicality can be seen as coinciding with the objective spirit in its entirety. Law and morality are not

separate components of the objective spirit, but rather the abstract moments which result from it by a kind of ideational decomposition of the ethical totality. Of course, law and morality are not pure intellectual entities. But they are abstract, in the sense that the implementation of their concept presupposes factors that are external to their own principle: the implementation of legal rules is not purely legal, but social and political; the fulfilment of the moral goals supposes that an 'ethical' (that means institutional) objectiveness is granted to the rules that the moral subject claims to set for itself. This does not mean that the characteristics of legal and moral relationships (legal relation of persons to other persons and to things; moral relation of agents to norms and to other subjects) have been eliminated in the ethical sphere. On the contrary, they find in the ethical configurations (family, etc.) the institutional guarantees of their own agency.

Hegel gives the following definition of *Sittlichkeit*: it is "the *concept of freedom which has become the existing [vorhandenen] world and the nature of self-consciousness*" (PR §142; GW 14, 1:137). Embedded in a (social, political, and historical) world, ethicality has first of all a character of unavailable objectivity whose determinations, which constitute a "circle of necessity," are "the *ethical powers* which govern the lives of individuals" (PR §145; GW 14, 1:137–8). However, individuals are not mere "accidents" of the ethical "substance," although Hegel also uses this terminology: for the system of objective determinations in which their action is embedded is for them a living world of experience, and this world only has reality if it is "object of knowledge," or at least of belief, on their behalf (PR §146; GW 14, 1:138). Unlike the laws of nature, the laws of the ethical world "are not something *alien* to the subject" (PR §147; GW 14, 1:138). They are valid only by virtue of the representation that individuals have of them: their validity depends on the understanding they have of them and the active recognition they give them. This is the reason why the connection between the subject and the objective structures of the ethical world involves a double side. On the one hand, "the ethical substance, its laws and powers" appear to the individuals completely out of reach; in this respect, they have "an absolute authority and power, infinitely more firmly based than the being of nature" (PR §146; GW 14, 1:138). On the other hand, the actuality of ethical norms presupposes that every subject finds his own account thereby having its "*self-awareness*" in them because he recognizes them as what constitutes his own essence; in short, "the ethical is the actual living principle (*Lebendigkeit*) of self-consciousness" (PR §147; GW 14, 1:138). Thus, the relationship of individuals to the conditions and norms of their acting, which is still external under the form of subjective adherence to the moral Good, is fully internalized by becoming *Sitte*, ethical custom. As a "general mode of behaviour" of individuals, ethical custom, which is a practice objectively ruled by universal norms, appears as their "*second nature*" (PR §151; GW 14, 1:000). It is therefore only within the *Sittlichkeit* and the relations that are woven into it that the crucial role of *subjectivity* within the objective spirit becomes evident. Subjectivity is not only the "ground in which the

concept of freedom has its existence,” but also “that mode of existence of the concept which is adequate to it” (PR §152; GW 14, 1:142). In other words, the objective spirit is only consistent with its own concept, inasmuch as the ethical institutions are the stage for a dialectic of subjectivity and objectivity that constitutes their *conceptual* or *ideal* character (in the sense that the Logic of the Concept is a “subjective” logic that leads to this “subjective-objective” configuration that Hegel calls “idea”). In short, the individual subjectivity is the agent of the inner construction of *Sittlichkeit* as “a world where freedom exists as existing necessity” (E §385; GW 20:383).

However, if institutions are also, so to speak, subjective machines, the fact remains that in the sphere of the objective spirit the objective dimension seems to prevail over the subjective. Within objective spirit, the normative content whose actuality depends on the adherence of subjects is not *first* posited by this adherence: it is always presupposed by their action. And, unlike the “formal” moral subjectivity, ethical subjectivity (as the “true [moral] conscience” (PR §137; GW 14, 1:120)) has to acknowledge this primacy of objective normativity and consent to a relativization of its particular expectations. Hegel describes the normative background of action with the term, borrowed from Aristotle, of second nature.⁶ As such, ethicality is indeed radically different from the first, “exterior” nature (which includes our own bodily and mental natural constitution), because it is not a reign of blind necessity, but *freedom* into a necessity. However, the second nature remains, at least as it is immediately represented, a *nature*: the “language” it speaks is that of necessity. If ethicality, therefore, should allow the subjective individuality to fulfil itself in a world which is consistent with its own concept, it is not spontaneously perceived as such, especially since individuals have liberated themselves from previous political and religious constraints. To reach actual freedom presupposes on behalf of individuals an acculturation (*Bildung*), an inculcation of universal norms and ways of acting, paid by an “*hard work*” against their immediate naturality and the representation they have of their own freedom, against “mere subjectivity of conduct,” “immediacy of desire,” “subjective vanity of feeling,” and “arbitrariness of caprice” (PR §187; GW 14, 1:163). Therefore, individuals often are tempted to resist liberation that appears to them as an external constraint. Consequently, in the objective spirit, the reconciliation of objectivity and subjectivity remains in most cases an objective, maybe an extorted one. That’s the reason why, especially in the sphere of politics and State, ethical duties seem stronger than ‘subjective’ rights, although both of them have in reality the same normative weight, and are even, indeed, identical (PR §261; GW 14, 1:208).

8.3 The Ethical Virtue of Institutions

Let’s explore in more detail how *Sittlichkeit* both produces and, in turn, is sustained by different forms of subjectivity. The “ethical disposition” (*sittliche Gesinnung*) and the “political disposition” (*politische Gesinnung*)

of the individuals are a *prima facie* trustful, somehow naive adherence to the State's laws and to the social rules, more than a "Kantian" subject's self-determination following a rational norm of universalization.⁷ Ethicality, therefore, does not depend primarily on the outstanding behaviour of the individual, but, at first, on the fact that he is "*the citizen of a State with good laws*" (PR §153; GW 14, 1:142). Nevertheless, the validity of those "laws of ethical nature" presupposes something else than a mere passive acceptance: subjective freedom, which conceives itself as moral autonomy, does not abandon its rights. Precisely because humans cannot enjoy the "innocence of a plant" (E §248; GW 20:238), the ethical second nature has to be recognized and accepted as its own nature by subjective conscience, that has to be gradually educated ("cultivated") to it. A mediation between objective norms and subjective consciousness is therefore needed. This mediation should be guaranteed by the different substructures the ethical sphere entails, substructures which have in common the fact that all of them are *institutions*.

Ethical (i.e. familial, social, political) institutions are an expression of "the power of the rational in necessity" (PR §263; GW 14, 1:210): they ensure not only the coherence of individual aspirations and collective wholeness but their common genesis as well. They simultaneously constitute, by creating what Charles Taylor calls "common meanings" (Taylor 1985: 39), individual subjectivity and social objectivity. Institutions are not artificial, they are not the result of a conscious design; they are rather, as Hauriou says, "geologic layers," a kind of an archaic soil on which customs, beliefs, norms, and practices rest (Hauriou 2010: 168–9). Their "evidence" arises from the fact that they are presupposed by every day's gestures, to which they provide a meaningful horizon. Institutions are quasi-things, the furniture of the world in which individuals live naturally. However, they are not material things, but purely symbolic relations which organize the perception, talking, and acting of subjects, who are precisely becoming subjects to the extent that they fulfil the rituals that secure their belonging to these institutions.

The coherence of Hegel's conception of *Sittlichkeit* relies precisely on this point: beyond the apparent heterogeneity of the elements it gathers, it intends to show the *institutional rooting* of individual and collective practices and representations that private law and morality reduce to abstract operative schemes (modalities of acquisition, transfer, and restitution of rights; moral imputation of action and normative structures it follows), and consider only in their individual aspect (law considers person's acts; morals evaluates subject's actions according to the abstract norm of the Good). This institutional rooting can be observed not only in the sphere of the state, whose "big" institutions and laws are "its own will as *thought*" (PR §256; GW 14, 1:200) at first in the family (marriage, filiation, and transmission of inheritance), as well as in the civil society (market, estates, judicial authority, and corporations). Domestic, economic, and social relations between individuals or classes of individuals are building a depoliticized or pre-political institutionalized space that shapes

“the *constitution* in the realm of particularity” (PR §265; GW 14, 1:211). Thanks to these social institutions, and *secondly* to the political institutions (representative assemblies, government agencies...), individuals can submit themselves to a universal regulation, without being in principle deprived or alienated, as it is often the case with the moral subject. In this respect, Hegel’s theory of *Sittlichkeit* offers a kind of “societal constitutionalism” in the sense of Gunther Teubner (Teubner 2012).

However, there are different types of institutionalism, differing in the way they understand the relationship between individual and institution. Dieter Henrich argues that Hegel’s theory of objective spirit is a *strong* institutionalism, in the sense that

the freedom of the singular will can only be realized in an order which, as an objective one, has itself the form of the rational will, and which therefore includes the individual will entirely in itself and subsumes it under its own requirements, although without alienation.

(Henrich: 31)

I don’t totally agree with this description. I would rather say that it is a *weak* institutionalism, precisely because it considers non-political (familial, social) institutions as the “firm foundation” of the state and political institutions (PR §265; GW 14, 1:211). The different sorts of institutionalism have in common, as I said before, to seek to overcome the alternative between subjectivism and objectivism. Hegel’s theory of *Sittlichkeit* shares this outlook, even if it seems, according to Henrich, to attribute a higher weight to the ethical objective norms. But if it is understood not as strong, but as weak institutionalism, the balance is re-established between the two dimensions (Kervégan 2018: 279–82). Hegel’s conception of institutions grants an equivalent weight to the subjective dispositions and practices as to the objective normative patterns of ethicality. For example, a state’s constitution is not only a set of normative legal provisions (the different state powers and their distribution), it describes rather the dynamics according to which the State *constitutes itself* through the interaction of the subjective dispositions of citizens and the institutions which structure public life: as the “organism of the state,” the constitution is the process “through which the universal continually *produces* itself ... in a necessary way ..., and *preserves* itself in so doing” (PR §269; GW 14, 1:212). “Constitution” is the way of self-institution of a political community through social processes. The “political disposition” (*politische Gesinnung*), the political *ethos* of the “bourgeois” becoming a “citoyen” is, so to speak, the subjective face of the constitution of the state, whose organism needs to be sustained by the “trust” of the citizens. There is therefore a kind of “subjective constitution” of the state.

Thus, we should not misunderstand the signification of Hegel’s institutionalism: his theory of *Sittlichkeit* does not necessarily involve a unilateral submission of “subjective will” to an “objective” one, rooted in overhanging,

inaccessible, thick institutions, even if, like any institutionalism, it declines to isolate the structures of practical subjectivity from the objective “ethical” context in which it is constituted. Institutions are thus the meeting point between the objective organization of common life (the “institutions” in the usual sense of the term) and the work of socialized subjectivities. Neither the individual (as in the “atomistic” social theories), nor the whole understood as having *sui generis*, separate reality, is a secure starting point: only their interaction produces society, for, as Durkheim says, it produces “the social in us” (Durkheim 2008: 636). This should lead us to a larger consideration of the constitution of the individual in the *Sittlichkeit*.

8.4 Institution of Individuality

In what I call the institution of individuality, the word ‘institution’ recovers the processual, active meaning it had in the Roman legal language (*institutio*, *instituere*) and in an older phase of our languages (see for example Montaigne’s chapter entitled “De l’institution des enfants,” in his *Essais* (Montaigne 2004: 145–77)). Institution is not an impersonal, stationary structure, but the space where an institutive dynamism takes place, what the philosopher Castoriadis called “the imaginary institution of society” (Castoriadis 1975). Imaginary does not mean illusory: the institution of society, which is an endless task, is imaginary in the sense that it involves the work of subjectivity and intersubjectivity, which are constituted thanks to institutions and also transform them, both consciously and, above all, unconsciously. How does this process work?

Conscious and autonomous activity, required by the conditions of social and political modern life, presupposes a web of institutional belongings, but never derives mechanically from them. Subjective dispositions, attitudes, and practices are *shaped* by the institutions of *Sittlichkeit*, but they are not *determined* by them, as if they were their “superstructural” reflection: Hegel’s theory of the ethical constitution of subjectivity is not a “theory of ideology,” at least as Marx’ followers have mistakenly understood it. It means that my social and political identity can never be simply deduced from the objective characteristics which individualize me, and that I can be “free” (even if we consider a quite short definition of freedom) when I acknowledge and assume the institutional rooting of my individuality and of any other individuality. Free is to be taken here, at first, in a legal sense, as “independence from being constrained by another’s choice” (Kant 1996: 393). But freedom has in Hegel a more challenging, ontological meaning: freedom consists in being with oneself in the being-other (*Beisichsein im Anderen*), it is “negativity, insofar as it is deepened in itself to the point of highest intensity and becomes itself absolute affirmation” (E §87; GW 20:124).⁸ This dialectical concept of freedom allows us to understand that the actual social and political freedom of individuals results from the seemingly external cultural impregnation of the *Sittlichkeit*, generated by self-emerging institutions and expressed by

the evolutive mores, customs, and collective representations of a historical community. Social and political freedom, hence, does not consist in a mere acceptance of social objective constraints (embedded in the institutions, with the strong influence they have on individual representations and will), but, sometimes, in a confrontation with it, for example during a revolution, when individuals and groups rise up against the injustice of an older *Sittlichkeit* becoming fruitless.

Let's consider the way different faces of social individuality, like the legal person, the moral subject, the family member, "the citizen (in the sense of *bourgeois*)" (PR §190; GW 14, 1:166)⁹ and finally, the political citizen (*Staatsbürger*), are to be linked up in the institutional context of objective spirit. If we read this sequence in a linear way (following a mere teleological understanding of *Aufhebung*), we are tempted to think that each of those figures "overcomes" the precedent, which would be rather deleted than preserved. I think, on the contrary, that *Aufhebung* has here (and, doubtless, generally in Hegel)¹⁰ the significance of a regression towards what grounds something (that's to say, what makes it *relatively* legitimate), and not that of a progression towards its refutation:

Each step of the advance in the process of further determination, while getting away from the indeterminate beginning, is also getting back closer to it; consequently, that what may at first appear to be different, the retrogressive grounding of the beginning and the progressive further determination of it, run into one another and are the same.

(SL 750; GW 12:251)

The theory of *Sittlichkeit* provides an illustration of this "progressive-regressive," or recursive, structure of Hegel's "method" in an institutional context: in accordance with the *Logic*, the "result" (the State) is here the "true ground" of the moments from which it results in the "development of scientific concept," that is, family and civil society (PR §256; GW 14, 1:199). Consequently, the political figure of individuality, citizenship, and its subjective expression, the "political disposition," are the logical "result" as well as the "true ground" of former figures of individuality, such as a person, subject, family member, and "bourgeois" (that is, social agent). Following Hegel's recursive method, "the *State* in general is in fact the primary factor," and "only within the State does the family first develop into civil society" (PR §256; GW 14, 1:199); one can say as well, on the "subjective" side, that the "spirit of citizenship" (the political disposition) is, so to speak, the "true ground" of the subjective attitudes of the social agent and, mediately, of the legal person and the moral subject. In the modern situation of a functional differentiation of domestic, social, and political spheres, political "subjectivity" or *ethos* is the condition of actuality (but not that of possibility) of the pre-political forms of subjective individuality, because it is precisely what releases them from their abstraction. The modern citizen is *also* a moral subject, legal person, family

member, and social agent; and his subjective “constitution” provides actuality to these figures and their respective “spirit.”

But where does this modern political *ethos* itself come from, and what gives it the capacity to actualize the different kinds of ethical attitudes? Hegel’s response is that political subjectivity (*politische Gesinnung*) is generated by “the institutions within the State” (PR §268; 14, 1:211). We understand spontaneously that political subjectivity results from the differential participation of the citizens to the life of the political institutions, for example by voting or holding political office. But this is not what Hegel means; moreover, the state institutions (assemblies, state administration, etc.) have not yet been addressed at this step of his argument. “The institutions within the State” are not only or even essentially the properly political institutions, but rather the familial and social institutions previously considered, which are thus the “ethical roots” not only of the state but also of the subjective constitution of its members (PR §255; GW 14, 1:199). It is essential to underline the major role of the *social* (it means: pre-political) institutions in the process of the institution of political individuality. The scheme we have here is, as I have said, a recursive one. Participation in the social institutions generates the citizenship’s spirit; this one fulfils and feeds in turn those subjective dispositions, required for the good functioning of partial systems, like family or civil society. For example, Hegel describes the relationship between the “spirit of the corporation” and the “spirit of the State” as follows:

The spirit of the corporation, which arises when the particular spheres gain legal recognition, is now at the same time inwardly transformed into the spirit of the State, because it finds in the State the means of sustaining its particular ends. [...] In so far as the rooting of the particular in the universal is contained immediately in the spirit of the corporation, it is in this spirit that such depth and strength of disposition as the State possesses are to be found.

(PR §289; GW 14, 1:242)

These subjective dispositions certainly emerge through participation in institutionalized social practices, but at the same time, they feed them back and assure their “normal” functioning.

In the 1817/1818 class on “Natural Law and Science of the State,” Hegel says the following: “There must be a universal patriotism, but it must come about through *esprit de corps*” (GW 26:160). It is noteworthy that he denies here what he wrote in a short fragment from 1794, in which was explained that “the *esprit de corps*” endangers the “spirit of the whole,” i.e., that of a “community which is unanimous in front of its god’s altars” (GW 1:125). This reversal can be explained by Hegel’s institutional turn. Whereas young Hegel considered individuality as a dangerous factor of dissolution, the old Hegel believes that the peculiar institutions of family and civil society not only do not hinder the formation of the “spirit of the whole,” but they alone

promote it. Institutions, as essential constituents of the sociality of reason, are objective producers of subjectivity, especially of social and political subjectivity, and, through the recognition processes already at work in the spheres of family and civil society, of intersubjectivity; therefore, institutions are the conditions of the actuality of subjective as well as objective freedom.

Notes

- 1 For a recent examination of the problem, see especially Kervégan (2018: 330–49); Pinkard (1994: 269–343); Pippin (2008: 239–72); and Zabel (2015). *A contrario*, for a critique of the “overinstitutionalization” of Hegel’s view of *Sittlichkeit*, see Honneth (2001: 102–27).
- 2 Searle notes that a similar distinction is introduced in Rawls (1955).
- 3 As is well known, the distinction between brute facts and institutional facts was first introduced in Anscombe (1958). Anscombe does not use the term “institutional facts,” she talks about facts “in the context of institutions.”
- 4 Unfortunately, it is not possible to capture in English (or French) the distinction made in German legal language between *Institut* and *Institution*: property or marriage are *Rechtsinstitute*, the State or the University are *Institutionen*.
- 5 I don’t use the usual translation of *Sittlichkeit* with “ethical life” because Hegel sometimes uses the phrase “*sittliches Leben*” (PR §§175, §§270, §273, §357; GW 14, 1:153, 223, 226, 280).
- 6 On Hegel’s conception of second nature, see in the recent literature especially Testa (2009); Quante (2011: 116–39); Pinkard (2012: 98ff., 183ff.); Ranchio (2016); Khurana (2017); Menke (2018: 119–48).
- 7 See (PR §§137, §207, §267–8; GW 14, 1:119, 173, 211).
- 8 See (PR §187; GW 14, 1:163): “Only in this way is the spirit *at home* (*einheimisch*) and *with itself* in this *externality* as such.”
- 9 The distinction between *bourgeois* and citizen, borrowed from Rousseau and Kant, had a polemical character in the opinion of the young Hegel, who denounced the “political nullity” of the *bourgeois* (NL 458; GW 4:458). On the contrary, in the *Grundlinien*, the social virtues of the *bourgeois* feed the political disposition (“virtue”) of the citizen. On this topic, see Kervégan (2018: 121–46).
- 10 “That which is sublated [*das Aufgehobene*] is thus something at the same time preserved; something that has lost its immediacy but has not come to nothing for that” (SL 82; GW 21:94).

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9 The Significance of Plato for a “Disenchanted Aristotelian” Reading of Hegel’s *Philosophy of Right*

Paul Redding

Over the last decade, Aristotle has come to play a more prominent role in the Hegel interpretations of Robert Pippin (Pippin 2019) and Terry Pinkard (Pinkard 2012) reflecting an evolving debate since the first appearance of their characteristic “post-Kantian” approaches (Pippin 1989; Pinkard 1994). While the post-Kantian reading promised a Hegel better suited to the more naturalistic and metaphysically modest proclivities of the modern age, many critics regarded this approach as signaling far too great an emphasis on the “Kantian” component of this label, with a retention of the unworkable dualisms of Kant’s own thought that had been so accurately targeted by Hegel himself. Construed in this way, Hegel’s philosophy, they complained, was being assimilated to the type of metaphysical scepticism Hegel had denounced in Kant. Moreover, while understood as “transcendental” in this Kantian way may have exempted human subjectivity from the status of *transcendent substance*, it did nothing to overcome the alienation between the human subject and the natural world typical of modern existence and reflected in Kant’s own philosophy. Replying to these types of criticisms, Pippin, for his part, has aimed to bring out the sense of Hegel’s continuity with Aristotle’s metaphysics—a metaphysics of *this* world rather than of any Platonic transcendent realm—without disrupting the underlying “Kantian” dimensions of Hegel’s approach (see especially Pippin 2019). In *his* recent writings, Pinkard has tended to address the latter critique, seeking to conceive of Hegel’s affirmation of ourselves as creatures of a natural organic world understood in an Aristotelian, albeit modern, “disenchanted,” way (Pinkard 2012; Pinkard 2017, especially Chapter 1).

In this essay, with a focus on Pinkard’s Aristotelian reading of Hegel’s naturalism, I suggest that Hegel’s classical heritage be widened to include *Plato*. What is required is a certain Platonic *tempering* of Aristotelianism—or at least the specification of a non-standard *Platonically inflected* version of Aristotle to which Hegel appeals and which he opposes to more familiar ones. A principal reason for the importance of this is that Hegel’s Platonic criticisms of conventional Aristotelianism have links to his criticisms of *Kant*, and so by emphasizing the more Platonic aspects of Aristotle, Pinkard’s position might be strengthened against those criticisms that see his interpretation as *still* too indebted to Kant (for example, Deranty 2012).

This suggestion, however, is likely to be met by an immediate objection. How could a *more* Platonic Aristotle help here as surely Plato represents precisely the type of traditional transcendent metaphysics and anti-naturalism that all in this debate want to avoid? Was not Aristotle the philosopher who brought Plato's "ideas" down to earth and so into the actual living realm where they became the active and thinkable "forms" embodied in material substances?¹ A few brief preliminary points might here be appropriate.

First, the objection to Plato rehearsed above, while presupposing a common view, does not capture the complexity of Hegel's attitudes to both Plato and Aristotle, but especially to Plato, who Hegel understood in a strongly *neo-Platonic* and, consistent with this, *neo-Pythagorean*, way, as found in the so-called "unwritten doctrines" interpretations of Plato (see Chapter 11 of Krämer 1990). For Hegel, it was Plato rather than Aristotle who was able to properly conceive of *the world*, and not just thought about it, as having a logical structure, as set out in mythological form in the dialogue *Timaeus*. Next, it had been a feature of the "syllogism" structuring the cosmic animal in *Timaeus*' cosmology that in turn linked Plato to that element of modern thought missing or at least incomplete in Aristotle—the dimension of *singularity* as a conceptual determination distinct from that of *particularity*.

The focus on Plato's *Timaeus*, however, will bring with it the necessity of addressing aspects of Hegel's philosophy that a Hegelian modernist might want to avoid—the seeming positive regard in which Hegel held Plato's *cosmology* from the time of his 1801 dissertation "On the Orbits of the Planets" (DOP 163–206), through to his later Berlin *Lectures on the History of Philosophy* (LHP 207–18). Hegel had been roundly mocked for purportedly appealing to Plato's strange numerical sequences to explain the relative sizes of the planetary orbits in his 1801 dissertation, but this ignores the *logical* rather than *cosmological* focus of Hegel's interest. In the Berlin Lectures, there is no suggestion that he took seriously the empirical status of the ancient doctrine of the "music of the spheres." Rather, Hegel characterizes the complex numerical ratios derived from musical harmonies and applied to the cosmos as a *sylogism*. "It retains the form in which it appears in the ordinary syllogism, but here it is the rational." The "ordinary syllogism," which is clearly Aristotle's, is the "syllogism of the understanding" in which "the extremes have the value of independent characteristics." The ordinary syllogism is, however, "sublated in the Platonic presentation, and the speculative aspect constitutes the syllogism's properly authentic form and nature" (LHP 210). The feature of this Platonic syllogism that Hegel highlights as distinguishing it from the syllogism of the understanding is that it exhibits a *split* or *doubled* "mean" or "middle term" (LHP 211). This is expressed in Hegel's own treatment of the syllogism that gives it logical features found in Leibniz's logic that would later be reflected in the similar "algebraic" versions of Aristotle's logic developed in the second half of the nineteenth century by George Boole and his followers.

The underlying idea in Plato's characterization of the "doubled" or "broken" mean or middle term in uniting extremes here is relatively simple. A three-part structure can be thought of as unified if *each* part can in turn play the role of a "mean" or "middle" binding the other two "extreme" terms together. Each middle term is therefore split in the sense that it *becomes* both extremes. The details, however, are complex, as Plato had drawn upon the musical theory of contemporary Pythagorean mathematicians who had postulated three interdefinable intervalic means, the geometric, arithmetic, and harmonic, as responsible for the structures of contemporary musical modes (Barker 2007).² The problem faced here was that the magnitudes involved were *incommensurable*. While the arithmetic and harmonic means that internally divide the octave (at the perfect fourth and perfect fifth, respectively) could be specified as ratios of whole numbers, the *geometric* mean, which divided the scale *into* octaves, could not.³ This had been significant for the Pythagoreans as the discovery of such irrational or "incommensurable" magnitudes had threatened their arithmetically based worldview, sparking a quest to show how such categorically incommensurable components could be unified.⁴ As Henry Harris pointed out,

Hegel attached great importance, for his own Logic, to the fact that Greek geometers discovered ratios that were not numerically determinate in some of the simplest (most easily intuited) spatial relationships. This was, for him, the fundamental paradigm of the necessary self-transcendence of the Understanding in 'dialectic'.

(Harris 1997, I: 118)

The type of categorical unity sought across such incommensurable concepts would be what Hegel described with phrases such as the "identity of identity and non-identity" (DS 156).

Exploring the details of this historical context would take us far beyond the scope of issues able to be pursued here, but a quick sketch of Hegel's presentation of the Platonic doctrine might at least point us towards issues having a more conventional and contemporary shape that bear on the conception of logic relevant to a naturalistic construal of Hegel. I will start in Section 9.1 with a brief contrast of Pinkard's "disenchanted Aristotelian" version of the relation between normativity and nature with Robert Brandom's account. In contrast to Brandom and Kant, Pinkard's appeal to Aristotle is to allow a place for normativity *within* nature. While this means nature cannot be entirely disenchanted, neither can it be entirely *enchanted*, and so Pinkard's account has Hegel located somewhere *between* Aristotle and Kant. However, Hegel's alignment with Plato's rather than Aristotle's logic will, I suggest, be relevant here and this will send us in Section 9.2, to Hegel's conception of the *syllogism* with its triadic singular-particular-universal structure which contrasts with the particular-universal structure of Aristotle's formal syllogism, a structure repeated in Kant.⁵ Hegel had seen in Plato's purported

Pythagoreanism, I will argue, a source for the irreducible dimension of singularity in its distinction from particularity and the consequences of this for Hegel's partitioning of *Sittlichkeit* in *The Philosophy of Right* will be examined in Section 9.3.

9.1 Differences between Pinkard's and Brandom's Versions of a Naturalized Hegel

Those attempting to naturalize the phenomenon of mindedness often discourage any attempt to understand the mind simply from the "inside"—that is, as "consciousness," as standardly conceived. Rather, the mind can be understood as something expressed in the external, extended world, typically in the intentional goal-directed actions of a living being towards objects in its environment. What has further distinguished the *post-Kantian* readers of Hegel from more standard types of naturalist critiques of any mind-body dualism has been the portrayal of *human* bodies as living and acting within a rule-governed institutional realm that is not *simply* natural—the realm Hegel described as "objective spirit."

Wilfrid Sellars, with his stress on human life as an irreducibly normative realm within nature, has come to be regarded as having provided important conceptual resources for the post-Kantian reading of Hegel, with both Pinkard and Pippin alluding to Sellars in their early accounts (Pinkard 1979; Pippin 1987). This connection would be developed by Robert Brandom (for example, Brandom 2009) but in *Hegel's Naturalism*, Pinkard distinguishes his approach from that of Brandom:

On Hegel's account, the difference between animal and human mentality does not rest on the idea that the former is nonnormative (or that it is merely sentient, in Robert Brandom's phrase) whereas human mentality is also normative (or what Brandom calls sapient).

(Pinkard 2012: 26)

The sense in which the extra-human realm of nature—specifically *organic* nature—can itself be understood as a normative realm might now be used to explore the difference between their respective approaches to normativity.

For Pinkard, the normativity existing in organic nature is expressed in terms of *value*,⁶ that is, in the fact that "there can be goods and evils for plants and animals"—goods and evils that we can recognize as the objective basis of their *strivings*. While nature *as a whole* does not express a purpose—nature *itself* is "disenchanted"—there are ends and purposes *in* nature, that is, *for* the organisms that strive for their own continued existence as well as that of their species as represented by the drives of hunger and sexuality (Pinkard 2012: 19–21)⁷ This in turn means that there are "reasons for plants and animals to respond in one way or another" (Pinkard 2012: 26) Such strivings are of course present in *human* animals as well, but what distinguishes a human from a non-human

animal is that that the latter does not, as Pinkard quotes from Hegel's *Philosophy of Nature*, "know his purposes as purposes" (Hegel in Pinkard 2012: 26). Pinkard glosses this as "the animal cannot respond to reasons *as* reasons since the animal lacks the capacity to make judgments that can then serve in inferences ... the goals at work in animal life cannot be entertained *as* goals" (Pinkard 2012: 26). The non-human animal "exists ultimately to reproduce itself, but even there, it has no conceptual awareness—no developed negativity, in Hegel's terminology—of itself as a member of a species" (Pinkard 2012: 26).

Sellars had stressed the necessity of a judgment's being able to play a crucial role in inference for its identity *as* a judgment but, *exactly* how are we meant to understand this link? Elsewhere (Redding 2015), I have argued that in contrast to Brandom's *strong* inferentialism in which the capacity for a judgment to stand in inferential relations is both necessary and sufficient for it to have semantic content and *be* a judgment, Hegel's inferentialism was *weak*. While necessary, inferential relations, as least as conventionally understood, are not sufficient for the determination of a judgment's meaning. This means that there are possibilities for the role of a *sensible* form of awareness in Hegel, perhaps continuous with the type of mindedness possessed by non-human animals. While there appears no obvious corresponding role for these in Brandom, with his firm border between sentience and sapience, Pinkard's Aristotelian approach suggests how such a role might be compatible with Hegel's weaker inferentialism.

Within expressive approaches to the mind, it is common to talk of animals as *classifying* the things or features of their environments by their behavioural responses to them—for example, to classify other animals as dangerous or hostile by fleeing or otherwise avoiding them. In terms of *human* judging, Pinkard notes that in *The Science of Logic* Hegel discusses, among other forms of judgment, "those judgments we make of individuals by pointing them out ("That thing over there")" and "classifying them ("That one is red")" (Pinkard 2012: 13). The "judgment" expressed by an animal when avoiding a predator—one *we* might express by "That one over there is dangerous!"—seems to offer a natural analogue.⁸ Adopting this language, it would seem that the limits to this type of activity would be the use of the types of inference Aristotle discusses in *Prior Analytics*—that is, inferences among entirely *general* claims. It is difficult to see how, without the use of language, animals might be capable of making inferences of the type, "All As are B, and all Bs are dangerous, therefore all As are dangerous," but even for Aristotle inference was not restricted to the forms found in *Prior Analytics*.

While Pinkard's conception of animal classification starts from the Aristotelian concept of *value*—animal goods to be attained or evils to be avoided—for Brandom, any relevance possessed by animal desire is in relation to the development of the *Kantian* notion of *norms*, understood as directives to be followed in action, and therefore followed *correctly* or *incorrectly*. Brandom describes how in relation to the conception of rationality it had been Kant who had shown the way beyond the type of classificatory approach to the mind

common in the early modern period. Kant's alternative here had been to treat concepts not as classifying predicates but as *rules* to be followed:

What distinguishes judging and intentional doing from the activities of non-sapient creatures is not that they involve some special sort of mental processes, but that they are things knowers and agents are in a distinctive way responsible for. Judging and acting involve commitments. They are endorsements, exercises of authority.

(Brandom 2009: 32)

As opposed to a value-based approach to normativity, it is difficult to see how nature could contain the seeds of this rule-based normativity linked to a propositionally based semantics, especially in light of Brandom's account of an animal's capacity to *practically* classify objects in its environment. "A creature can *take* or *treat* some particular *as* being of a general kind by responding to it in one way rather than another" (Brandom 2019: 240–1). The responses of sophisticated creatures may involve complex feedback loops, but nevertheless, such "reliable differential responses" as classifications are continuous with the way in which

a chunk of iron classifies its environments as being of one of two kinds by rusting in some of them and not in others... For that reason, this sort of behavioural classification is not by itself a promising candidate as a definition of concepts of semantic content or awareness.

(Brandom 2019: 241)

However, Brandom finds a more promising variant of this approach in Hegel's linking of animal *desire* to the phenomenon of *recognition* in Chapter 4, of the *Phenomenology of Spirit*. What Hegel had shown was the grounding of the type of self-consciousness presupposed by Kant in the *mutually recognitive* relations existing between human subjects, thereby *socializing* the conditions of self-consciousness. A link between animal desire and recognition might thus provide a link between natural desire and self-consciousness.

[M]aking the step from the orectic awareness of animal denizens of the realm of Nature to the conceptual consciousness of knowers and agents who live and move and have their being in the normative realm of Spirit ... requires the advent of self-consciousness... [W]hat is required to be able to take something to be a self is to be able to attribute attitudes that have distinctively normative significances: to move from a world of desires to a world of commitments, authority, and responsibility... To recognize someone is to take her to be the subject of normative statuses—that is, of commitments and entitlements—as capable of undertaking responsibilities and exercising authority.

(Brandom 2019: 243–45)

In Brandom's reading of the *Phenomenology's* Chapter 4, the relevance of natural desire is to provide an objective model for thinking about the way in which an *attitude*, an *action*, and a *goal* may be linked in the expression of human intentional states. That is, this *triadic* structure as found in animal desire, with hunger as the attitude, eating the action, and self-reproduction the goal, will be used to conceive of how the recognition of another's normative status can be linked *as* an action to an appropriate attitude and goal respectively. The question becomes: what *type* of desire within such a structure corresponds to the *action* of recognizing and the *achievement* of the form of recognition that supports self-consciousness? The answer given effectively follows that found in the well-known interpretation of Hegel by Alexandre Kojève (Kojève 1980): it is the "*desire for recognition*" (Brandom 2019: 249). In Section 9.3, I will argue that this does not capture the full scope of Hegel's account of recognition but even considered in its own terms it is difficult to see how it could work. Elsewhere (Redding 1991), I have pointed to the circularity of Kojève's attempt to account for the *origin* of recognition in terms of a desire *for* recognition: how can a desire have a target that does not as yet exist? More generally, it is difficult here to understand how social norms are meant to be conceived as *emerging from* the mechanistic "practical intentionality" of organic nature (Brandom 2019: 24). All we are presented with is a parallel between two formal structures. In contrast, Pinkard's *value*-based approach to normativity is, we will see, both faithful to Hegel and more capable of demonstrating a *continuity* between nature and spirit. But problems with Brandom's conception of Hegel's spirit also exist, I suggest, in his conceptualization of the underlying *logic* of discursive practices.

Besides Kant, Gottlob Frege stands as a crucial ancestor of Brandom's inferentialism. Frege had rejected the idea of judgment as classifying individual subjects by general predicates: rather than starting with individual subject and predicate terms, he had started with the idea of a complete proposition as capable of fixed truth or falsity. From such a starting point, sub-propositional elements could then be derived *via* the application of mathematically based notions of *function* and *argument*. Linking Kant and Frege, for Brandom the judgment becomes "the conceptually and explanatorily basic unit at once of meaning, cognition, awareness, and experience" because "judgments are the minimal units of *responsibility*—the smallest semantic items that can express *commitments*" (Brandom 2009: 33–4), an approach that Brandom calls, "the semantic primacy of the propositional" (Brandom 2009: 34). This idea of the semantic primacy of the proposition had been central to Frege's radical break from the Aristotelian tradition of formal logic and Frege had used it as a weapon against the rival approach of George Boole, who, in a style similar to Leibniz, had retained more of Aristotle's subject–predicate conception of the judgment.

Boole had worked out algebraic calculi for *both* term and propositional logics, describing "primary" and "secondary" propositions respectively. Thus, he contrasted a primary proposition such as "the sun shines" on the one hand

with secondary ones such as “it is true that the sun shines” or “if the sun shines the earth is warmed” on the other (Boole 1854: 38). Each proposition classifies different things: “The sun shines” classifies *the sun* with the class of shining things, but the corresponding secondary proposition “it is true that the sun shines” classifies the *primary* proposition, “the sun shines,” with other *true* propositions. Among the many problems of Boole’s logic, however, was the unclarity of the relation between these judgment types. He seems to have thought secondary propositions could be constructed *from* self-sufficient primary ones—an idea subject to Sellars’ famous critique of the “myth of the given” (Sellars 1997) and motivating his inferentialist semantics.⁹ But later logicians in the Boolean tradition such as C.S. Peirce and W.E. Johnson would attempt to specify the relation more explicitly, and from *their* perspectives, Frege’s own approach of the “primacy of the propositional” could be understood as simply having arbitrarily confined logic to Boole’s secondary propositions at the cost of abandoning any logical role for *primary* ones. Fregean assertions look like Boole’s *secondary* propositions with the “it is true that” uttered, as it were, *sotto voce*.¹⁰ As Pinkard had pointed out as noted above (Pinkard 2012: 13), Hegel had discussed simple classificatory forms of judgment that resemble Boole’s primary propositions, and their fate within his logic should determine whether Hegel should be sorted with the Booleans or the Fregeans. His treatment of judgment in the Subjective Logic of *The Science of Logic* Book III, I believe, strongly indicates the former.

Like Leibniz and Boole, Hegel distinguished between two underlying judgment types with traditional term-logical and more modern proposition-logical origins (Redding 2014). These were distinguished by the type of predication found in them. In judgments of *inherence*, the predicate was understood as inhering in the subject, while in judgments of subsumption, the subject was understood as subsumed *under* the predicate (SL, 555/GW 12:57–8). Unlike Boole, however, Hegel did not attempt to *derive* judgments of subsumption with their properly propositional contents from purportedly more basic inherence ones constructed from subject and predicate terms understood as independently meaningful. However, neither did he attempt to derive *analogues* of term-based judgments from propositional ones, in the style of Frege. Hegel’s resolution was, I believe, based on *Plato’s* suggestion that the “bond” uniting subject and predicate, in Boole’s example, ‘the sun’ and ‘shines’ was *doubled*—that is, such a bond could be understood—in fact, *had to be* understood—in each of two opposing, term- and proposition-logical, *inhering* and *subsuming* ways. This duality was in contrast to the treatment of judgment in the “logic of the understanding” in which the *bond* or *middle term* was not so doubled, an approach found in different ways in Aristotle, Kant, and Frege.¹¹ Plato’s solution to such identity in difference was again drawn from the unity of the three musical means sought within Pythagorean mathematics.

According to the late Pythagorean mathematician, Nicomachus of Gerasa, in a text possessed by Hegel (Nicomachus 1926: Book II; Mense 1993: 673),

the proportion that Plato in the *Timaeus* had described as binding the parts of the cosmic animal into a whole was the so-called, musical *tetraktys*, a series of four numbers, 6, 8, 9, and 12, that related the three musical means. While 6 and 12 could be understood as numbers standing in a “geometric” series in which each successive term has double the value of the term it succeeds and that corresponds to a sequence of *octaves*, the numbers eight and nine divide that octave internally at the consonant intervals of the perfect fourth and fifth respectively. The mathematics behind this meant that this sequence could be understood as instantiating a higher-order ratio *between* two ratios. Hegel would explore this structure in Book I of *The Science of Logic* as the “ratio of powers [*Potenzenverhältnis*],”¹² described as a quantum that posits itself “as self-identical in its otherness” or as “immediately itself and also its otherness” (SL 278/GW 21:319). That is, the two relations making up this higher-order relation are in some sense opposite but in another sense identical.

This, I suggest, would be the Platonic model for Hegel's conception of the relation between two judgments standing in a syllogism, each conceived as involving a different “ratio” between subject and predicate. While the immediate (Boole's primary) and mediated (Boole's secondary) judgments, “the sun shines” and “it is true that the sun shines” have different logical forms they nevertheless can be understood as equivalent in terms of their content. As recent “deflationist” theorists of truth have pointed out, to say that *it is true that* the sun shines is really to say no more than *the sun shines*. Nevertheless, they *do* exhibit functionally different logical forms. Hegel, I suggest, treats his version of such primary judgments (judgments of inherence) as having a form appropriate for the acquisition of empirical content, and secondary judgments (judgments of subsumption) as having a form more appropriate for standing in truth-functional implicational relations to other similar judgments. Such “identity of identity and non-identity” between these two judgment forms, I suggest, corresponds to the way that each relation within the double relation of powers is “self-identical in its otherness.”

9.2 Cognitive Duality and the Syllogism as Unity of Judgments Identical in their Difference

Hegel, as is standardly claimed, was a critic of philosophical dualisms, but this does not mean that he eliminated *duality* from his system. In fact, his system demands such self-reconciling dualities in a way that nevertheless preserves an element of opposition between their component terms. A relevant expression of this type of duality appears in the penultimate chapter of *The Science of Logic*, the chapter leading into that on “the Absolute Idea,” where Hegel distinguishes between *analytic* and *synthetic* moments of theoretical cognition, “The Idea of the True” (SL 697–728/GW 12:199–230). Hegel discusses this distinction in a predominantly *mathematical* context, identifying analysis with

arithmetic and algebra, and synthesis with Euclidean geometry.¹³ This, in fact, takes us directly to the contrast between Plato and Aristotle and the Pythagorean arithmetical framework of Plato's approach.

From at least the time of his association with Schelling at Jena in the first years of the nineteenth century, Hegel had been drawn to geometry (Pater-son 2005), the mathematical discipline that Schelling, following Spinoza, had afforded special philosophical significance. Schelling had written that while the distinction between analytic and synthetic methods had been "clumsily imported into philosophy from mathematics," the synthetic method of geometry "is surely the true image of this [i.e., philosophy's] absolute method" (Schelling 2001: 389–90). While "arithmetic expresses a particular [*ein Besonderes*] (the relation of singular quantities [*Verhältnis von einzelnen Grössen*]) in the universal, geometry expresses the universal (the concept of figure) in the particular" (Schelling 2008: 275). In this way, while arithmetic is tied to and limited by the empirical realm of singular quantities whose *relations* it expresses, geometry is not.

In order to show the characteristics of the given figures the geometer needs nothing more than the universal and absolute form of pure space as such. The geometer *does not depart from his absolutes* in order to reach the particular.

(Schelling 2008: 280)¹⁴

As Hegel was plainly aware, Aristotle had criticized what he had taken to be the undue influence over Plato held by contemporary Pythagorean mathematicians (Aristotle 1984, *Metaphysics* 987b23–35). These were theorists of music such as Philolaus of Croton (who had extended his explanations of harmonic relations to cosmology) and Archytas of Tarentum (Barker 2007, Chapters 10 and 11). This was at a time in which important changes were emerging in Greek mathematical thought, as the Pythagorean grounding of geometry in arithmetic, the discrete science of number, was being replaced by an approach to geometry in which proportions between continuous magnitudes were being conceived as determinate without being reduced to specific numerical values (Klein 1968). A crucial figure in this was Eudoxus of Cnidus, a member of Plato's academy (and possibly Aristotle's first tutor) who is thought to be the originator of the account of proportions (*analogia*) in Chapter 5 of Euclid's *Elements*. The influence of this new type of geometry on Aristotle's syllogistic has been commonly commented upon, one historian even citing Eudoxus as deserving "to be considered as the founder of the syllogism, of which Aristotle was to establish the formal theory only fifteen years later" (Lasserre 1964: 97).

While Aristotle had assimilated central elements of this new geometric thought, Plato more represented the Pythagorean old guard, the theories of Philolaus and Archytas being expressed in the cosmology found in his

dialogue *Timaeus*.¹⁵ This reversal of the stocks of arithmetic and geometry taking place at the time can be seen encapsulated in a reversal of the understanding of the relation of points and lines between the Pythagorean position and the more Eudoxean stance of Aristotle. For the Pythagoreans, a line was conceived as composed of an array of discrete *points*, which were realizations of the same “monas” or “one” that was the basis of counting. Aristotle, however, rejected the fundamental nature of any such points, a point had only a *potential* place in matter, made actual “only if we perform an action that singles it out and thereby brings it from potential existence to actual existence” (Pettigrew 2009: 248). Within geometry, the continuity of matter is represented by the line, and a point can be understood as determined in a secondary way, typically as the place where two lines intersect.

Corresponding to the loss of the primacy of what Hegel would call the “singularity” represented by the point, was the absence of singular terms in Aristotle’s syllogistic. Thus, despite the familiarity of the *purported* syllogism, “All men are mortal, Socrates is a man, therefore Socrates is mortal,” this is properly *not* an Aristotelian syllogism (Łukasiewicz 1957: 1). The fact that Aristotle’s middle terms need to play the roles of both *subject* and *predicate* in the syllogism, together with his disallowing *singular* terms such as “Socrates” to be predicates, the only subject terms allowed in the syllogism are *universals* such as “all Greeks” or particular determinations of those universals such as “some Greeks.” This loss of singularity is expressed in his well-known claim in the *Posterior Analytics*, that while one may be looking at Callias, what perception is strictly *of* is the *universal* “man,” it is not of Callias in his singularity, “Callias the man” (*Posterior Analytics*, 100a15–b1). In this way, Aristotle had represented a shift from an arithmetical Pythagorean outlook to an incommensurable *geometric* one, with the holistically conceived continuum being thought of as prior to countably discrete atoms. That Hegel would attempt to bring these incommensurable magnitudes into a type of identity in difference is manifest in the difference in his position to that of Schelling.

In Book I of *The Science of Logic* Hegel would declare that in abstraction from the discrete quantities of arithmetic, spatial magnitude “has only delimitation in general; when considered as an absolutely determined quantum, it requires number” (SL 170/GW 21:196).¹⁶ In order for pure geometry to become a determinate form of knowledge, arithmetic will need to be somehow integrated into it. But Hegel also regarded the development of arithmetic beyond simple counting procedures as dependent upon its integration with geometry, and this mutual dependence of each on the other is in turn reflected in the later discussion of analysis and synthesis.¹⁷

Based on arithmetic, analytic cognition starts “from some singular, *concrete* subject matter” and it is described as seemingly external to any determinate concept: its material is “an already totally abstract and indeterminate product from which every peculiarity of relation has been eliminated” (SL 700, 703/GW 12:203, 205). But the discussion of synthetic cognition also reflects

the problems of geometry as mentioned above. In synthetic cognition, the determinations of the concept “stand only in relation to one another or in immediate unity” and so “the concept’s own specific presence in the subject matter still lacks singularity ... What in the object corresponds to the concept is ... the determinate form of the concept and hence the concept’s *particularity* [*Besonderheit*],” while “the singular itself [*das Einzelne dasselben*] is still a *given content*” (SL 707/GW 12:209). Thus, “singularity, which is a determinate way of existing in and for itself, escapes the conceptual determination proper of synthetic cognition” (SL 709/GW 12:211). And so, in contrast to Schelling, Hegel is here treating *singularity* as *required* for any complete conceptual determination, something upon which *particular* determinations of conceptuality are reliant to become fully determinate. This, in a way, echoes Kant’s idea that in order to be meaningful, conceptual structures require the participation of *singular intuitions*, but this cannot be understood, as it is in Kant, as limited to some *external addition*. Kant’s appeal to external intuitions had been premised on his own *synthetic* understanding of conceptual determination as something that singularity “escapes” (SL 709/GW 12:211). For Hegel, singularity must be treated, along with particularity and universality, as a proper moment of “the concept” itself (SL 546–49/GW 12:49–52).¹⁸ Philosophy’s method is clearly *not* that of mathematics, but if mathematics can offer what Schelling describes as a “true image of the absolute method” (Schelling 2001: 389–90), this comes not from geometry alone, but in a conception of geometry and arithmetic/algebra as somehow combined.¹⁹

Hegel also distinguishes the logical structures of analytic and synthetic cognition by appealing to the components of the syllogism. “Analytic cognition is the first premise of the whole syllogism” and concerns the “apprehension of what is” while synthetic cognition, the “second premise ... the one in which the diverse as such is connected” aims at “the comprehension of what is” (SL 706–7/GW 12:209). It is this functional duality of *apprehension* and *comprehension* that is served by the two forms of predication found in Hegel’s account of judgment, predication as the inherence of the predicate in the subject and predication as the subsumption of the subject by the predicate.

We might get a more concrete sense of what this entails by looking to Hegel’s earlier treatment of the logic of the syllogism at that point where the explicitly evaluative “judgment of the concept” transitions into the syllogism. Hegel’s examples—“this house is bad,” “this act is good”—suggest judgments about the value of some specific entity *in its* singularity. Such a judgment says “that the subject *ought* to be something; its *universal nature* has posited itself as the self-subsistent concept” (SL 583/GW 12:85) and the “ought” involved, of course, testifies to the fact that the subject in question “expressly differs from its self-subsisting universal nature [*um ihrer ausdrücklichen Unterscheidung willen von ihrer selbstständigen allgemeinen Natur*].” That is, in its “external concrete existence” it is “indifferent with respect to the universal and may or may not conform to it” (SL 583/GW 12:85). As we have seen, this is characteristic of analytic cognition, at least when considered in isolation from synthetic.

In their immediate forms, such value judgments are, as one would expect of judgments made by subjects immersed in the contingencies of natural life, *subjective*. Such subjective assurances

can with right be confronted by an opposing one. When the assurance is given that 'this action is good', the opposite, 'this action is bad' has equal justification ... it still is a contingent matter, therefore, whether there is or there is not conformity to the concept.

(SL 584/GW 12:86)

The normativity involved here is *Pinkardian*, as is the continuity with the earlier, more subjective, values of organic life. And here the transition to the sphere of *spirit* has a clearer mechanism than what is found in Brandom. Judgments of this form are clearly continuous with the type of practical classification of which animals are capable as when they are attracted to the "good" and avoid the "bad." But for humans, such heavily perspectival judgments, influenced by immediate circumstances, are likely to be contested, and it is because they come to face opposing claims that an asserter will be led to *give reasons* for the original claim: "The house, as so and so constituted, is *good*," "the act, as so and so *constituted*, is right" (SL 585/GW 12:88). But this, it seems clear, is an implicit syllogism along the lines, "This house is so and so constituted. A house so and so constituted is good. Therefore, this house is good."

Here we witness a judgment's transition into the syllogism that it *truly* is.²⁰ The "*this house*" is the "singular, concrete subject matter" from which analytic cognition starts while the referent of "a house" of the second premise is otherwise indeterminate. It is *any* house, even a *potential* rather than the actually existing one, that if having these features *would* thereby be good. On the basis of Hegel's claim that the syllogism is the "truth of the judgment" (SL 593/GW 12:95), we should not be surprised to find such distinct *analytic* and *synthetic* characteristics linked within Hegel's account of the judgment forms leading up to the judgment of the concept, and these are found in the opposing Boole-like dual conceptions of judgment forms—predication as *inherence* of the predicate *in* the subject and predication as the *subsumption* of the subject *under* the predicate. One thing then is immediately clear: Hegel's account of the syllogism with his idea of the ineliminable role for singular terms departs from Aristotle's, but not to the degree found in Frege. Hegel's reflects the distinction between *term*-based and *proposition*-based conceptions of judgments that had first started to become explicit within Leibniz's modification of the traditional syllogism in the seventeenth century, in which he integrated *singular* elements introduced by earlier nominalist logicians (Lenzen 2004: 7–8). Leibniz's appeal back to ancient Pythagorean arithmeticism is present in his choice of name for his own system, "monadology," after the Pythagorean *monas*, the basis of all number. But the singularity of the Leibnizian monad was itself not Pythagorean but reflected the introduction of the discipline of

algebra into Europe from Arabic mathematics in the early modern period, algebra having been a comparatively underdeveloped area of mathematics in ancient Greece. While the Pythagorean monad coincided with the concrete judgment subject in which a predicate *inheres*, Leibniz's new monad coincides more with the abstract subject which the predicate *subsumes*, that is, is true of: the “any house” of Hegel's second premise rather than the “this house” of his first. Gottfried Ploucquet, an important eighteenth-century follower of Leibniz responsible for instruction in logic at the *Tübingen Stift* during Hegel's time there, utilized a distinction between “exclusive” and “comprehensive” senses of particularity (Ploucquet 2006: §§14–5). In Hegel, this distinction would emerge as that between judgments with concrete singular subjects in which a predicate inheres and those with abstract subjects subsumed under a predicate representing some particular determination of a universal.

In short, Hegel's syllogistic examples show that there can be no simple *elimination* of the analytic “inherence” form of judgment forms classifying “that thing over there,” nor any *reduction* of them to opposing synthetic “subsumptive” judgment forms. Such elimination or reduction would result in a logical system unable to serve the *apprehension* of that which is to be *comprehended*. In more recent times, in order to capture the *modal* dimensions of reasoning, Saul Kripke and others have argued against the reduction of proper names (Hegel's singular determinations) to Russellian definite descriptions (Hegel's particular determinations). Hegel's idea of the divided middle term would therefore seem to have a contemporary relevance, but the significance of this for Hegel clearly extended well beyond the usual concerns of logicians.

9.3 Analytic Singularity and Synthetic Particularity in the Syllogisms of *Sittlichkeit*

In the Preface to the textbook to his lectures, *Elements of the Philosophy of Right*, Hegel makes the point that the exposition of the concrete matter to be dealt with is “based on the logical spirit” that had been set out in *The Science of Logic* (PR 10/TWA 7:13). When we arrive at Part Three: Ethical Life [*Sittlichkeit*], we find that, like all other parts, it is presented in the familiar triadic form of the *Logic*, here corresponding to the three main modern institutions of social life: family, civil society and the state. Were one to apply the type of syllogistic structure of the *Logic* sketched above, one would not be surprised to find the immediacy of the family *qua* association of singular concrete natural individuals to be somehow correlated with the *analytic* first premise, the abstract generality of civil society with the *synthetic* second premise and the final syllogistic conclusion as the *state*, a conclusion within which the distinction between the two premises has been absorbed but preserved—*aufgehoben*.

Against the common approach of treating the family as *simply* a natural unit, found for example in Fichte's more Kantian approach to the ontology of the social world (Fichte 2000: 264–319), Hegel insists that it is *spiritual*, although spirit as *immersed* in nature, “the *immediate ethical* [*Sittliche*] relationship” (PR §161).

As the primary agent for the socialization of children, the family is concerned with the induction or elevation of individual bits of nature into spirit—first into its own institutional normative framework whereby such beings (or at least the males among them) then become capable of further induction into the institutions of civil society. However, as with the syllogistic model, the family's relationships are "arithmetical" in the sense that *specific* concrete individuals are combined together. But just as arithmetic for Hegel has an implicit geometrical dimension, here these concrete countable individuals also instantiate general social categories: *this* person will be bound to *that* person as a *mother* is to her *son*, while she will also be related to *that other* person as a *sister* is to a *brother*. While a single concrete member of the species will be related to other concrete members in terms of relations that are *similarly* rooted in nature, this does not prevent these relations from having a normative significance because the social roles involved carry appropriate *ways* of behaving to such others. This is in line with Pinkard's value-based approach to normativity, the biological element ensuring that the ethical *oughts* involved will generally coincide with the bodily-based feelings that typically mediate such natural relations. This will be different, however, to the way individuals are related to others in the opposing sphere of civil society as well as to the way they relate to the social roles they themselves instantiate.

Hegel describes the principle of civil society as one in which "the concrete person who, as *particular* [*als Besondere*], as a totality of needs and a mixture of natural necessity and arbitrariness, is his own end" and who "stands essentially in *relation* to other similar particulars" (PR §182). In terms of that person's relation to his or her own nature, he or she is simply an instance of the more general kind, *homo sapiens*, and from *that* point of view, their nature-based "totality of needs and mixture of natural necessity" will be seen as *arbitrary* in relation to their *specific* social identities. This contrasts with the way that bodily based affections generally coincide with the social conventions that regulate life within the family. Similarly, within the realm of civil society, one's behaviour towards others is regulated by rights and duties that themselves abstract from the type of natural relations that otherwise bind subjects together.

The normativity of civil society is that rule-based form that Brandom takes as primary: one treats others as otherwise abstract bearers of rights and duties, Brandom's "entitlements" and "commitments," and expects to be treated by them in this way as well. It is in this sense that in such relations "each asserts itself and gains satisfaction through the others, and thus at the same time through the exclusive *mediation* of the form of *universality*, which is the second principle" (PR §182). While familial bonds are analytic and "arithmetical" in the sense that singular items are here what "count," those of civil society are synthetic or geometric. The individual is there conceived as *abstractly singular* and external to determination as the bearer of a particular social role as found in the family. There has been a split within the individual at both natural and social levels. At the level of nature, the concrete individual is determined by

some arbitrary combination of natural necessities expressing themselves in that singular instance; at the level of social life, he or she is determined by the combination of socially acknowledged rights and duties. In both cases, the individual is determined by an intersection of universals something like the way in synthetic geometry that a point is determined by intersecting lines.

Finally, as in the “conclusion” of a syllogism, these analytic and synthetic moments into which an individual is split need to be *aufgehoben* such that the peculiarities of each are nevertheless maintained and integrated into the status that they bear as a member of the state itself. For example, the *patriotism* required by the state (PR §268) retains elements of the affective dimension of family life, as does the citizen’s affective relation to the monarch, “essentially determined” as Hegel puts it, “as *this* individual” (PR §280). At the same time, the *constitutionalist* character of Hegel’s state requires it to draw upon features of the “externally” law-governed realm of civil society.

According to the model of the double-ratio or “ratio of powers” holding together the parts of Plato’s cosmic animal, the relations constituting the familial realm on the one side and civil society on the other must be seen as something like inverted forms of the other. We have seen this in the peculiar identity between Hegel’s two types of judgments, but here the structure is an ontological one. Aristotle himself had modeled the structure of the state on that of the family. Like the family it is a creation of nature (Aristotle 1984, *Politics* 1253a1–4) and while *prior* to the family (as whole is to part) it is made up of family households (1253a19–1253b1). Without the mediation of civil society between family and state, there is no realm for the development of *social* universals or a role for universal rights and duties. Hence the relation between master and slave is treated as equally natural, and so, as equally legitimate, as the relation between husband and wife (1253b4–23). Of course, from Hegel’s historicist perspective, Aristotle, like each individual, was a “*child of his time*,” and his philosophy, like all philosophy, should be considered as “*its own time comprehended in thoughts*” (PR 21/TWA 7:26). Without civil society having been part of Aristotle’s actual world, there is no sense in which he should be chastised for not incorporating its consequences in his political theory. And yet the shortcoming of Aristotle’s thought here cannot be simply put down to this. His predominantly *synthetic* comprehension of these matters stood in contrast to what Hegel thought of as the more properly inclusive categorical structure revealed by Plato, albeit in mythical form, in the *Timaeus*.²¹

To describe Hegel’s state as having the structure of a syllogism is really no more than to describe it as made up of two “premises” with opposing logical forms—the familiar and civil realms—as related in a certain way. From such a point of view, the once common conception of Hegel’s theory of the state as proto-totalitarian is modeled on the absurdity of a syllogism as something existing independently of the judgments making it up. Hegel’s state must be a complex of institutions designed to allow these two opposed realms to coexist and so allow the manifestation of those opposed aspects of individual existences that each realm brings to the fore, and it must do so in ways that

enable neither side to dominate at the expense of the other. In short, the state has to be an appropriate double-ratio between the different ratios that are expressed within the family on the one hand and civil society on the other. Such a conception now allows us to appreciate the limitations of Brandom's account of the relations of "recognition [*Anerkennung*]" that he finds in Chapter 4 of *The Phenomenology of Spirit*.

Considered in the context of Hegel's *Philosophy of Right*, Brandom's account of the nature of the recognitive bond operative in rational interaction among members of the human species seems clearly based on the structure of the "second premise" alone: that is, it is purely *synthetic*, with a legalistic articulation of obligations and rights ("commitments" and "entitlements") between otherwise abstractly equated subjects (Brandom 2019: 245). The *symmetry* that Brandom attributes to the structure of recognition (Brandom 2019: 247) also only applies to the abstract relations of civil society. In the family context, when I recognize someone as my sister, clearly she doesn't recognize me in the same way, but in the opposed category of *her brother*. Restricted as Brandom is to the text of the *Phenomenology*, the only place he touches on the family as a *geistig* institution is in his discussion of the ancient family with its "fatal structural flaw" in which is found "a running together of the normative and the natural." As he points out, "in the *polis* Hegel describes, the reciprocally recognizing particulars who institute the community are not individual humans, but *families*. The *polis* and the family are accordingly the two normative centres from which potentially conflicting demands can issue" (Brandom 2019: 480).

Another way of putting this point would be that individuals only count within this system as *particular* members of *particular* families. In Hegel's terms, this amounts to the inability of Aristotle to clearly distinguish between the categories of particularity and singularity. Individuals are not recognized *as such* as they are in the modern world. This means that the properly Hegelian way of analyzing such "flaws" is not simply to distinguish the conflation of normativity and nature within Aristotle's conception. Aristotle's state is an extended realm of familial relations that stands in need of an opposing realm, that is, civil society. But according to the syllogistic model, civil society is itself equally in need of *its* opposite, the modern (as itself opposed to the ancient) family. Syllogisms require both analytic major premises and synthetic minor ones, and just as in his strong inferentialism Brandom has no place for Hegel's immediate "analytic" judgments, nor does he recognize an essential place for the analytic recognitive relationships of the familial sphere within the recognitive relations of society as a whole. In short, the phenomenon of recognition is thus more complexly structured in the *Philosophy of Right* than it is in Chapter 4 of the *Phenomenology of Spirit*, making it a mistake to think of what we find in the latter location as *Hegel's own* "theory of recognition" as has often, but erroneously, been assumed since Kojève's influential work.²²

Pinkard's move to capture the naturalistic dimension of Hegel's idealism by appealing to elements of Aristotelianism within it marks an important

development within the post-Kantian interpretation of Hegel, but to merely mediate Kant with Aristotle is not enough. From Hegel's perspective, both approaches of Aristotle and Kant can be seen as suffering from the frozen conceptual structures of "the understanding [*der Verstand*]" typical of one-sided synthetic thought. The differentiation of singularity from particularity allows for the sense in which a concrete individual might elude determination by any conjunction of concepts. This is why singularity, from the perspective of synthetic thought like that of Aristotle or Kant, seems to fall *outside* the scope of these concepts, Aristotle excluding singular terms from syllogisms and Kant excluding intuitions from the domain of the conceptual. But this does not exclude singularity from *Hegel's* domain of the conceptual where it is one of the three determinacies of "the concept." The exclusion of singularity from synthetic thought must be countered by its inclusion in analytic thought, but to capture how this is possible, one must go beyond the logic of Aristotle to that of Plato.²³

Notes

- 1 This is explicit in Pippin's account of how Hegel follows Aristotle in his criticism of Plato's "two-world metaphysics" in construing ideas exclusively in the sense of potential (*dynamis*) rather than actual (*energia*). See, for example, Pippin (2018: 86, 94–6).
- 2 These three means are still used in contemporary statistics. The arithmetic mean is rational because the arithmetic mean of two numbers is half their sum, but the geometric can be irrational because it involves a square root, the geometric mean of two numbers being defined as the square root of their product.
- 3 In the modern diatonic scale of C major, for example, the fourth and fifth are the notes F and G respectively.
- 4 The discovery of the irrationality of most square roots had entered Greek mathematics around this time as a consequence of Pythagoras' theorem.
- 5 There are no places for singular subjects in Kant's transcendental logic. All subject terms are general.
- 6 Up until Dean Moyar's recent monograph (Moyar 2021) the general theme of value in Hegel's philosophy has been relatively ignored.
- 7 The goal of the striving non-human animal is the continued existence of itself or its species—as a *living* thing it is a "*Selbstzweck*" as "life is its own purpose" (Pinkard 2017: 10). Presumably the idea of nature as whole being purposeful would require the idea of a subject for whom it is purposeful. A transcendent god would fulfil this role in traditional accounts.
- 8 This is *not* to suggest that such human judgments can be simply understood as equivalent. What Hegel demonstrates in his logic is the interconnectedness of a variety of different judgment types, of which this is one, such that the identity of any particular judgment type cannot be understood in isolation.
- 9 Frege's complaint was different. Acknowledging the two judgment types, he criticized their lack of "organic" connection (Frege 1979: 14).
- 10 One might think of Frege's judgment stroke, '|', as a symbol standing for this part of Boole's secondary proposition.
- 11 Brandom himself often acknowledges his departures from Hegel's own formulation of such issues and is generally happy to abstract what he sees as the deep underlying truths from the historically contingent forms in which Hegel had expressed them. In relation to this see his comments of the methodological strategy

- of distinguishing “de re” and “de dicto” interpretations in Chapter 3 of Brandom (2002).
- 12 Hegel’s “Verhältnis” here is usually translated as “ratio,” but it should be kept in mind that what is standardly meant as a mathematical ratio does not capture the range of relations between two terms that this notion had in Pythagorean music theory.
 - 13 Hegel here uses the analytic–synthetic distinction in the modern way, in which Descartes’ algebraic reduction of Euclidean geometry by the use of coordinates was taken as “analytic” in contrast to the “synthetic” approach of Euclidean geometry. In fact, in the ancient context, the terms were used in a different sense. Analysis was a geometric approach that started from a result and attempted by the construction of diagrams to reach the theorems from which the result logically followed, while synthesis proceeded from axioms to theorems or from established theorems to further theorems.
 - 14 “There is only one principle of construction, *one* [principle] with which we construct in both mathematics and philosophy. For all the geometer’s constructions, this principle is the homogenous, absolute unity of space and for the philosopher it is the absolute unity of the absolute” (Schelling 2008: 277).
 - 15 Aristotle had criticized the extension of harmonic theory to cosmology (Gibson 2005: 27–8).
 - 16 “Geometry as such does not measure spatial figures—is not an art of measuring—but only compares them” (SL 170/GW 21:196).
 - 17 Hegel does *not* work with a conception of “pure” mathematics as opposed to that which is “applied” in empirical sciences such physics. Mathematics as a science thus develops in its application to the world. This was not an unusual attitude in the nineteenth century, the idea of “pure mathematics” developing only gradually during that century.
 - 18 All this contrasts with Schelling, who, with his elimination of the singular from the nexus of universal and particular and his conception of geometry as a *pure* science, is closer to Kant, who had treated singular empirical intuitions as external to (or incommensurable with) concepts and pure intuition as the medium of mathematics.
 - 19 Hegel does not consider mathematics as a “pure” discipline that can be separated from its application. Hence, these two mathematical forms would be combined in the evolving knowledge of the physical sciences.
 - 20 As Hegel’s examples make clear, it is not any *general* possibility of facing a demand for “reasons” from an interlocutor that induces this transition here. Rather, the asserter faces an equally subjective *counter-claim* that what is being judged is not simply *not good* but that it is specifically *bad*, a counter-claim that will be, like the original claim, similarly based in the subjective reactions of the interlocutor. It is this challenge that elicits a further claim from the initial judge that gives reasons for the original claim, specifying why, say, the house is a good one. Hegel’s general point is clear enough, it is the need to give a justification that derives from the contingencies of the realm of life that pulls the initial judgment into the Sellarsian “implicational space of reasons”.
 - 21 Perhaps it was because human individuality could not be completely expressed in the practical life of the polis that Plato’s recognition of its structure was at the level of myth in this way.
 - 22 It is more likely, as I have argued elsewhere (Redding 2020), to represent Hegel’s account of the limitations of *Fichte*’s theory of recognition, with its tendency to universalise the judicial conceptions of modern civil society.
 - 23 I’m very grateful to Terry Pinkard for comments on an earlier version of this paper. I’m grateful too for feedback from Jay Bernstein, David Kolb, Dean Moyar and Bob Stern.

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10 No Utopia

Hegel on the Gendered Division of Labor¹

Andreja Novakovic

10.1 Introduction

Marie Hegel (née von Tucher) had her work cut out for her. In addition to the many tasks that would have been performed directly by a woman of her station (bearing and raising children, early childhood education), Marie was also responsible for managing the many people whose labor sustained her family's way of life. As Terry Pinkard tells us in his seminal biography of her husband, Hegel handed over a large part of his salary to Marie, whose

duties included overseeing the running of domestic affairs, including arranging for and paying the various artisans and jobbers who were needed to keep their middle-class household running; Hegel took it on himself to pay the rent, pay the maids, and significantly to buy the wine.

(Pinkard 2000: 433)

They had two sons, whom Marie took regularly on long journeys to visit relatives in Nuremberg. And as a bourgeois woman in early nineteenth century Prussia, she would have procured food and implements from journeymen, hauled water, done the family's ironing, perhaps with the help of a servant or two. In the spring, she would have overseen the massive cleaning of her apartment and laundry, as well as any home renovations.² In Pinkard's words, "she had a full time job."³

Hegel's household attests to the fact that, as Sarah Jaffe has recently put it, "[t]he home has been a workplace for as long as there have been homes" (Jaffe 2021: 60). While Marie's own activities were confined to the domestic sphere, she was doing what today would be called reproductive labor or care work by caring for the needs of her husband and her sons, thereby reproducing the background conditions that allowed them to venture comfortably, well-clothed and well-fed, into the public domain.⁴ Her home would also have been, additionally and importantly, a site at which other people worked: servants, maids, and instructors, who were employed by her, as well as the jobbers and journeymen passing through. This indicates a significant fact about her context, which is that Marie belonged to a social class that allowed

her the privilege to work exclusively in her own home, rather than being in the position of, say, her maids, whose situation required them to find work elsewhere.⁵

In light of Hegel's home life, it is perhaps unsurprising that he drew the conclusion that women like Marie satisfy their socially significant calling by serving their families. His *Philosophy of Right* includes the following passage:

Man there has his actual substantial life in the state, in learning [*Wissenschaft*] and such, and otherwise in work and struggle with the external world and with himself, so that it is only through his division [*Entzweiung*] that he fights his way to self-sufficient unity with himself. In the family, he has a peaceful intuition of this unity, and an emotive and subjective ethical life. Woman, however, has her substantial vocation in the family, and her ethical disposition consists in this piety.

(PR §166)

The term Hegel uses to describe women's role is *Bestimmung*, sometimes translated as "vocation," though he could not have meant it in any analogously professional sense.⁶ *Bestimmung* in this context refers to a vocation in the sense in which Fichte meant it in his lecture "Vocation of Man" [*Bestimmung des Menschen*], in this context designating a gender-specific set of obligations. The *Philosophy of Right* thus presents a correspondingly gendered division of labor with men and women engaging in two distinct sets of activities, operating in two distinct spheres, and cultivating two distinct dispositions.

At face value, Hegel appears to be observing a set of differences visible in his context, in effect describing what would have been the case in his own social milieu by relying on conventional conceptual resources widespread during his time.⁷ While I think offering such a description is a crucial dimension of his self-ascribed task, Hegel is also doing considerably more. He is deliberately choosing which features to include and thereby redeem in his account of ethical life. Hegel's aim in the last chapter of the *Philosophy of Right*, which contains such richly historical descriptions of institutions and practices, is to offer one picture of a well-functioning society, which meets the basic criteria for a rational social order. According to this picture, a society that includes a gendered division of labor is going to count as well-functioning at least in this respect. In other words, Hegel is not offering a neutral description of what is the case but seeking to show that this sort of arrangement manifests the fundamental structure of a rational social order.⁸

There are two questions that need to be distinguished. On the one hand, we can ask whether Hegel thinks that a gendered division of labor is without conceivable alternative, so that it is only a society that includes such an arrangement that could ever count as rational by his lights. As I hope to show, this is not a consequence of Hegel's view, concerning the gendered division of labor or any other institution or practice in his account of ethical life.⁹ Even though he does not actively entertain alternatives for reasons that issue

from his methodology, this does not imply that he takes a gendered division of labor to be a necessary component of any well-functioning society. On the other hand, we can ask whether Hegel thinks that a gendered division of labor can be justified by appealing to fundamental structures that are in principle realizable in a variety of ways. It seems to me that Hegel is committed to this second, weaker view. To put it a bit differently, he thinks that the gendered division of labor is one concrete actualization of structures that any rational social order would have to embody. In what follows, I will trace the outline of such a justification.

Since Pinkard has already pursued a similar question, my paper will follow in his footsteps. In his book *Hegel's Phenomenology: Sociality of Reason*, Pinkard asks what reasons Hegel has for promoting a patriarchal model of the family (one in which the husband is its publicly recognized head) against alternatives that would have been conceivable to him because they could be found in prior epochs. He also asks how deeply these reasons are anchored in Hegel's overall project and its underlying normative commitments. Pinkard makes the following observation of Hegel's argumentative strategy, which is going to be crucial for my own reconstruction: "Whenever Hegel understands some social function to be necessary to a form of life's continuance and maintenance, he tends to look for discrete job-holders for those functions" (Pinkard 1994: 306). What I want to examine in this paper is one instance of this broader tendency, namely, the job-holders tasked with fulfilling the social function of mediation or representation. My focus will be Hegel's suggestion that, since families are unified singularities, they are to be represented by one individual in public contexts like civil society and the state. If you add to this Hegel's views about so-called natural aptitudes, you get a gendered division of labor.

Readers tend to react differently to Hegel's comments about men and women in the *Philosophy of Right*. Those who are already unfavorably disposed might see them as evidence that Hegel's entire project is tainted by his sexist prejudices,¹⁰ while those sympathetic to Hegel's project might dismiss these remarks as an antiquated (or *quaint*) aspect of his account, one that we can easily reject as outdated.¹¹ Then there is a tradition of interpreters who attempt to save Hegel from himself by showing that Hegel's views about the gendered division of labor are inconsistent with other commitments essential to his political philosophy – his conception of universal freedom, his rejection of nature as a basis for social organization, etc.¹² Whether Hegel's defense of a gendered division of labor is incriminating, disposable, or inconsistent is not something I want to settle in advance.

I will say at the outset that I think there are reasons to take Hegel's views on the gendered division of labor seriously. First, they allow us to raise broader questions about his methodology. What does Hegel take himself to be doing in offering a description of the institutions and practices of ethical life? If he is indeed justifying social arrangements drawn from his historical context, how precisely does such a justification work? And would it be legitimate to

pick and choose which aspects of Hegel's concrete picture we want to keep and which we want to reject? Second, since Hegel aims to render his own time comprehensible in thought, his views on men and women throw the possibilities and limitations of such a project into stark relief. They provide an example of a philosopher who is grappling with his own time, rather than inadvertently expressing it, in a way that underscores Hegel's self-avowed constraints on philosophical comprehension in general. What exactly does it look like to attempt to think one's time instead of being simply under its sway? And what does it indicate about the temporal limits on thought? Hegel's example could serve as a cautionary tale about the expiration date of any such project.

Third, it has become undeniable in our present moment that care work in its many forms continues to fall disproportionately on women's shoulders.¹³ This makes Hegel's descriptive content more relevant today than many would probably have liked to believe. Hegel's position takes such a division of labor to be a convenient solution to a number of problems endemic to rational social organization, from that of accommodating natural needs, to that of finding forms of representation adequate to the family's status inside a social order. Within Hegel's framework to offer a defense is also to suggest an explanation, both why this division of labor emerged and why it persists. Even if it turns out that Hegel's defense of the gendered division of labor falls short, or that its terms render it obsolete, an effort to reconstruct it could help clarify the staggering endurance that this division continues to display.

I proceed in the following order: §2 presents Hegel's concept of work and its relevance for the gendered division of labor; §3 traces one version of Hegel's justification, looking primarily to sexual difference inside the family unit; §4 turns to another version, which is based on his analysis of the family's relation to civil society; §5 asks what reasons Hegel has for promoting the view that families are to have "heads" at all; §6 considers criticisms of this social arrangement; and §7 asks what Hegel's justification of the gendered division of labor tells us about his overall methodology.

10.2 Concept of Work

Hegel's technical definition of work appears in his chapter on civil society in the *Philosophy of Right*. He writes, "the mediation whereby appropriate and particularized means are acquired and prepared for equally particularized needs is work" (PR §196). In the lecture notes, he adds, "It is by the sweat and labor of human beings [*Menschenschweiss und Menschenarbeit*] that the human being obtains the means to satisfy his needs" (PR §196A). Hegel is defining work as a mediating activity between needs on the one hand, and the means for their satisfaction on the other. The needs he has in mind are presumably first and foremost natural, such as those that originate in biological survival. If work consists in creating man-made means for biological needs, it would be a matter of mediation between two spheres, "nature" and "culture." But the

needs at issue are also transformed by social forces, which means that they needn't be understood as natural in any immediate sense. I have a need not just to eat something or other, but to eat according to the culinary standards of my time.

Work here is an exertion of effort ("sweat") in shaping means for the satisfaction of needs.¹⁴ This amounts to a process of production, the making of objective tools or goods, whereby natural resources are reshaped into suitable means for consumption. It is exemplified by the bondsman's labor in the *Phenomenology of Spirit* since the bondsman is engaging in a material transformation of the natural world by generating human artifacts. As needs become increasingly specific, so do the means for their satisfaction, as does the work that is required to produce those means. Work thus calls for the cultivation of specialized skills. For Hegel, this makes the labor process responsible for proliferating a division of labor. Labor divides itself into smaller and smaller units, which are then performed by trained specialists (and eventually by machines), thereby leading to increasing interdependence as individuals come to rely to an ever-greater degree on the labor performed by others.

This division unfolds inside the "system of needs" of civil society and does not appear to span across social spheres. But Hegel's definition of work is remarkably capacious and can be expanded to include activities internal to the functioning of the family and of the state. To take the state as an example, there is a distinctly political form of work performed by designated state officials as well as elected representatives within estates. What makes political work an instance of work is that it can be described as a transformation of means for the satisfaction of needs, though this requires interpreting both means and needs beyond their usual connotations. By instituting a law, you would be generating a means, say, a legal recourse, for the satisfaction of needs, say, the protection of property. Perhaps we could even say that the monarch is working, despite the fact that Hegel thinks his proper function consists in dotting the i's and so shouldn't require sweat and toil. Hegel's work as a university professor would likewise fall into this category (cf. again PR § 166), since Hegel is providing a service that satisfied what could be called intellectual needs.

In the context of the family, much of what Marie does on a regular basis can also be described as a transformation of resources for the satisfaction of needs, and in a sense that is even more literal than in his own case. Hegel has presumably three reasons at his disposal for not explicitly including domestic work in a general division of labor. One reason would be that work done by mothers and wives was not financially compensated, which limits its capacity to satisfy needs.¹⁵ Another is that it is done out of an emotional attachment, or at least an informal obligation to those for whom one cares. There seems to be a pervasive intuition only recently challenged that whatever is done out of love does not constitute work. Think of the saying attributed to Apple CEO Tim Cook: If you love what you do, you will never work a day in your life. The third is that the family operates according to rules that are fundamentally

different from those of the workforce. Its aim is to achieve a peaceful intuition of unity, in contrast to the competitive interactions that are characteristic of the marketplace.

With Hegel's concept in view, let us turn to his presentation of a gendered division of labor. In the above-cited passage, Hegel concedes that men remain members of their family and that the work that they go on to perform happens against the peaceful intuition of unity to which they return at the end of the workday. But a man typically engages in work that Hegel deems difficult, presupposes training and contributes to a body of knowledge, and involves a struggle against the external world through an effort to reshape it for human purposes, and against himself, perhaps his own tendencies and inclinations. Hegel also notes that it is nevertheless a source of self-actualization, which is only possible through separation from the close-knit familial unit. The sphere in which men find such professional challenges and satisfactions is public life, both in the state in the case of civil service or civil society in the case of commercial enterprises.

According to Hegel's passage, women do not participate directly in both spheres, embarking into civil society (or the state) and then returning to the peaceful intuition of their family. It is telling, I think, that Hegel does not go on to elaborate on the distinct character of their work, the various tasks that he would have seen his own wife perform. Instead, he emphasizes that women develop a distinct variation of the ethical disposition [*sittliche Gesinnung*] integral to social participation, which refers to an unwavering commitment to performing one's social role and fulfilling the duties it prescribes. Hegel claims that in women's case, this ethical disposition takes the more specific form of *piety*, citing Antigone as its paragon.¹⁶

Even the reproduction of social life, however, can be seen as a form of production, since it involves ways of mediating between nature and culture. Women on Hegel's own account are attending to the needs of relatives by ensuring that they have food, clothing, and education. This is not to deny the many differences between the family and civil society. For one, the needs at stake in the family are not generalized, so catering to them does not implicate one directly into the "system of needs." For another, the family and civil society operate according to different rules. It is important to his account that civil society, the realm of competitive interactions, be counteracted by the "peaceful intuition of unity" sustained in the family. That said, women's work can even be said to provide a paradigm case of mediation in the relevant sense since the family is a context in which natural needs play an outsized role and in which it is particularly urgent and particularly exhausting to find or fashion means for their satisfaction.

We can think of childbearing itself as a mode of mediation, servicing the needs of the species. But it is childrearing that provides an especially vivid illustration of mediation since it requires catering to the needs – physical, emotional, and intellectual – that arise in the process of individual development. One of the central tasks expected of women of Marie's situation would have

been to deliver or oversee early childhood education, which is in part a matter of initiating what is initially just an animal into cultural life.¹⁷ Although this set of considerations does not yet justify a gendered division of labor, it indicates one of the problems that the family must in some way solve – the satisfaction of natural needs, specifically those of children. Once you have accepted this premise, it is not a far jump to the conclusion that someone will have to make it their principal aim to ensure that this is achieved.

10.3 Sexual Difference

I now turn to one story about Hegel's attempt to justify the gendered division of labor, which is for the most part familiar from the secondary scholarship on the *Philosophy of Right*. This version of Hegel's argument focuses on his conception of the family unit from the inside and on the function of sexual difference within it. While it is not a story that I find most promising, it is clear that Hegel's views about the differences between men and women are going to be presupposed by any effort to reconstruct his reasons for dividing labor along specifically gendered lines. Otherwise, why not divide labor according to height or weight or some other quality? Since it is also clear that there is no way to bypass Hegel's views about marriage as a social institution upon which families are built, his account of marriage merits a close look.

On the one hand, the *Philosophy of Right* features a model of marriage that is clearly conventional, reflecting the dominant expectations in early nineteenth-century Prussia. Hegel describes marriage as a patriarchal, monogamous, and heterosexual institution, based on emotional attachment, but insulated from vagaries in attraction and affection.¹⁸ On the other hand, Hegel's model also contains unexpected elements. For example, even though he insists that marriage is not reducible to a contractual agreement between two independent persons, he also emphasizes a formal symmetry between the parties to a marital contract. As he puts it, marriage in its "objective origin is the free consent of the persons concerned, and in particular their consent to *constitute a single person* and to give up their natural and individual personalities within this union" (PR §162). He adds that even though entering such a union can appear as a source of limitations, it is actually a route to liberation, allowing the two individuals to be themselves in each other.¹⁹

This formal symmetry could in principle support a call for equality within the marital union. And there is evidence to suggest that Hegel takes himself to be offering an egalitarian picture of marriage. In his marginalia, Hegel writes that one ought to respect and place women as equal to oneself ("*die Frau als sich gleich achten and setzen*") and that men should not count more than women ("*Mann soll nicht mehr gelten als die Frau*") (PR §167N/TWA 7: 321).²⁰ But Hegel's ultimate analysis of marriage suggests a different picture. In fact, Hegel seeks to show that equality would remain abstract, and hence could never be actualized, if it did not incorporate differentiation, even if this generates discrepancies in resources and power.²¹ Although Hegel holds that

both members of a married couple are to be liberated by marriage, he claims that this is going to mean something different for men and for women.

Hegel even suggests that a marriage first becomes a concretely realized unity, reflecting what he calls the unity of the concept, through sexual difference, which comes to assume an increasingly hierarchical significance. It can appear at this point as if Hegel were smuggling appeals to nature into his *Philosophy of Right*, attempting to ground social arrangements in seemingly natural facts.²² This would be illegitimate by Hegel's own lights, because Hegel has already shown that nature cannot bear this burden. In his discussion of Ancient Greek ethical life in the *Phenomenology*, for example, Hegel concludes that its fatal flaw – which Antigone's action exposed – was its reliance on nature, specifically sex, in the assignment of social obligations.²³ Given this background, it is worth asking what role appeals to nature are indeed playing in this context.

The first thing to note is that Hegel accepts a view according to which marriages do have a natural function to fulfill, which is to propagate the species by bearing and raising children. He attempts to argue for the ethical significance of this natural function by claiming that marital love only attains its genuinely objective manifestation when a child is born.²⁴ Be that as it may, such an understanding of the purpose of marriage brings us closer to an argument for sexual difference, given that males and females are for biological reasons required for reproduction. It also brings us closer to an argument for the gendered division of labor, since there seems to be a convenience in aligning motherhood and housework.²⁵ Alison Stone captures this supposition as follows:

We may still think that Hegel's particular argument for women's place in the family makes illegitimate reference to mere nature. For presumably the reason why women and not men are deemed to be the rightful representatives of the family sphere is because of women's reproductive biology and functions. But matters are more complex than this.

(Stone 2012: 154)

What makes matters more complex is that marriage does not just take sexual difference at face value, but justifies and transforms any natural differences between the sexes. In the context of marriage, sexual difference is no longer a brute fact that human beings share with their animal counterparts, but appears under a distinctly ethical interpretation.²⁶

Hegel states this in the following passage:

The natural determination of the two sexes acquires through its rationality an intellectual and ethical significance. This significance is determined by the difference into which the ethical substantiality, as the concept in itself, divides itself up in order that its vitality may thereby achieve a concrete unity.

(PR §165)

In his abstract vocabulary, Hegel is telling us that there is a rational basis for sexual difference, which is to be found in what he calls the concept. As is true of the concept in all of its manifestations, it only becomes concretely articulated by producing internal differences, dividing itself up. Although we cannot “deduce” sexual difference from this general requirement – the sheer fact that the concept must divide itself up does not as such dictate along which lines – we can say that the concept in this social context puts natural differences to use in its own actualization. In this way, natural differences come to assume a “spiritual” significance.

In short, Hegel wants to have it both ways. He wants to be able to say on the one hand that nature does generate different traits among men and women that need to be incorporated and accommodated, and on the other hand that these are reinterpreted and even reshaped in the context of the family. For example, Hegel argues that natural differences justify the use of different educational practices, thereby entrenching and exacerbating them.²⁷ He focuses on intellectual aptitudes, specifically aptitudes for knowledge:

The *one* [sex] is therefore spirituality which divides itself up into personal self-sufficiency with being *for itself* and the knowledge and volition of *free universality*, i.e. into the self-consciousness of conceptual thought and the volition of the objective and ultimate end. And the *other* is spirituality, which maintains itself in unity as knowledge and volition of the substantial in the form of concrete *individuality* [*Einzelheit*] and *feeling* [*Empfindung*].

(PR §166)

In short, the spiritual [*das Geistige*] appears in men and women in two distinct forms. Women operate through feeling and men through thinking, which means that they differ in avenues of access to the social order of which they are a part. Moreover, women are oriented to concrete singularities and men to universal and objective purposes, which means that different aspects of this social order become available to them.

By implication, each mode of knowing seems on its own insufficient to yield knowledge in any full sense of the term, which suggests that men and women cooperate in an overarching process of cognition.²⁸ Moreover, these intellectual aptitudes are supposed to indicate that men and women are equipped for different kinds of work.²⁹ Since women are more affectively attentive to individuals, they turn out to be better suited for care work. And since men think about universal purposes, they turn out to be better suited for professional roles.³⁰ We have now arrived at the gendered division of labor with which we began, legitimating a social arrangement according to which women are working at home and men in civil society (and the state).

According to Pinkard, Hegel's point is that the two spheres at issue, the family and civil society, constitute two different sets of *projects*. As Pinkard

emphasizes, the notion of a project transcends that of a natural function, for projects need to be consciously and deliberately undertaken, which makes it possible to describe them as actualizations of freedom.³¹ If Hegel thinks that doing the work to maintain a family and doing the work to earn a living are two important projects, but that they are too demanding in their own right to be performed well by one and the same individual, then his defense of the patriarchal family mobilizes his conceptions of freedom and of a coherent self-understanding, as Pinkard suggests. Pinkard writes, “[i]n Hegel’s view, the patriarchal bourgeois family therefore has things just right. The woman is sovereign over the household (the realm of caring), and the man is the breadwinner (in the market, the realm of struggle and competition)” (Pinkard 1994: 306). But Pinkard also stresses that Hegel believes himself to be arguing that both kinds of work are essential to a well-functioning order. This means that it would have been open to Hegel to say that men and women make equally valuable contributions to the social whole.

It is at this point, however, that we find statements that suggest the inferiority of women. According to the lecture notes, Hegel compared women to plants and men to animals, thus seemingly mapping a social onto a natural hierarchy, and thereby denying that women are capable of being genuinely active, but instead exhibit a “peaceful unfolding” (§166A). Hegel is also said to have made remarks like the following: “When women are in charge of government, the state is in danger, for their actions are based not on the demands of universality but on contingent inclinations and opinions” (PR §166A). We are left with a view, according to which women – even though they supposedly embody variations of the spiritual and perform essential work – are passive, not active, and are subject to opinion, not knowledge. As Pinkard rightly notes, “If one takes an inventory of what Hegel says about the differences between men and women, it looks almost like a feminist parody (or perhaps a feminist nightmare) of male sexist thinking” (Pinkard 1994: 305).

This set of claims has led some readers to suspect that Hegel is merely venting his unexamined prejudices. If this were the case, he would be betraying his own philosophical aspiration to comprehend his time, rather than merely express it unreflectively. Whether or not this is a fair assessment of Hegel’s analysis of the family, what we have reconstructed so far is an argument for a gendered division of labor based solely on considerations internal to the family unit. This argument is rather fragile since it relies heavily on his views about sexual difference and the so-called natural aptitudes of men and women. Even if these are views with a longstanding afterlife, they are too easy to dismiss as quaint and obsolete. I will now consider another way of justifying the gendered division of labor, which does not depend exclusively on sexual difference, even if it cannot fully surpass it. Views about men and women are surely presupposed by any defense one can give of differential gender roles. The thought that I want to pursue, however, draws on deeper features of his account.

10.4 Division of Mediating Labor

The main feature of interest is what I will call Hegel's division of *mediating* labor. Hegel has the view that in the transition from one sphere to the next, there have to be those who perform the role of representing elements from the former sphere in the latter. Representation is a requirement of integration, without which a social order would constitute an aggregate of autonomous compartments and not an internally integrated whole. It is worth recalling that Hegel defines work itself as a mediation between means and needs. When I refer to a division of mediating labor, however, I do not mean mediation in this sense. Rather, I have in mind a social function to be performed in the transitions between social spheres. I am identifying this social function as a distinct species of work, namely, mediating labor.

We see an especially vivid example of mediating labor in Hegel's discussion of estates in civil society, whose spokespeople function as intermediaries explicitly tasked with protecting the interests of their members in the state. This leads Hegel to conclude that it is not the case that every economic agent participates directly in politics, since the majority does so only indirectly, namely, via representatives formed in civil society. In short, Hegel's analysis of the relation between civil society and the state appeals to a division of labor, according to which it is part of some people's job to mediate between these two spheres.

A structurally similar set of considerations seems to be at stake in the gendered division of labor because Hegel is also arguing that one member of the family has the job of mediating between the family and civil society by publicly representing the family's interests. Although it could in principle be either member of the married couple (presumably not the children yet to be educated), Hegel's assumptions about the aptitudes of men and women lead him to conclude that men are best suited for this task. He states this explicitly in the following:

The family as a legal person in relation to others is to be represented [*vertreten*] by the husband as its head. In addition, he is primarily responsible for external acquisition and for caring for the family's needs, as well as for the control and administration of the family's resources.

(PR §171)

This reference to the husband's representational function and its pertinence to his professional role suggests that Hegel's gendered division of labor is one instance of a general requirement for a division of mediating labor, of which other examples can be found.³²

Even if we were to accept the thesis that representation constitutes a significant social function to be fulfilled in an integrated social order, we can nevertheless ask why we should call it work. Couldn't one element represent another without expending effort? For example, couldn't my very presence

fulfill a mediating function, such as showing up at a union member's funeral as a union representative, even if I were not engaging in anything we would want to describe as work? It seems to me that Hegel understands mediation in the context of ethical life not as simply one element standing in for another, but as an activity circumscribed by duties. Although mediation is not going to involve work under all circumstances, at the junctures between the three social spheres of family, civil society, and state, it transforms one's professional role.

If I am the representative of an estate, it is my duty as a representative to solicit, combine, and present the opinions of the other members during public assemblies, as well as to educate these other members about the skills demanded by civil servants. And if I am the representative of a family, my duty as a representative is to procure sufficient material resources for my family's survival and to administer these resources. So, mediation involves specific tasks depending on the context in which it is to take place. These tasks could be formally required of me, as in the case of estate representatives who are asked to speak for other members. Or these tasks could be for the most part implicit, as in the case of the husband, who takes it to be obvious that he ventures into the workforce as the head of his family.

It should be clear that mediation can be work even if it isn't a discrete job. It is not as if the husband has two jobs, one as a mediator, and another as a university professor. Rather, the fact that being a university professor in the husband's case also fulfills a representational role is going to be reflected in his self-ascribed job description, what he takes himself to be doing in the workplace.³³ As the head of a family, the husband is bound to procure the material resources that are needed by all of the family members – especially by the children, who according to Hegel have “a right to be *brought up* and *supported* at the expense of the family” (PR §174) – and administer these resources, deciding how they are to be distributed and dispensed. Hegel takes these tasks to belong to the mediating work that husbands do. Performing mediating work moreover calls for skills beyond those that make one a good employee. For example, they require that one become good at balancing competing obligations and negotiating demands originating in different social spheres.

Pinkard and Stone have both remarked on Hegel's tendency to divide a social order into various functions and then assign the task of fulfilling these functions to specific individuals (or sets of individuals), rather than taking them to be functions that everyone could or should perform. Stone argues that this tendency has its basis in Hegel's specific organicist conception of the state and its appeal to an analogy with animal organisms, according to which the various “organs” must be functionally specialized.³⁴ Pinkard claims that it is a mere quirk of Hegel's approach, “not in any way essential to his thought:”

[This tendency] is not a requirement of his dialectic nor is it an implication of any of his particular ideas. It is necessary to his scheme of thought

that these very different aspects be understood in terms of their unity, but it is not necessary that in social terms each of these aspects necessarily be represented by discrete individuals or groups.

(Pinkard 1994: 307)

These two positions invite us to ask how deeply Hegel is committed to a division of mediating labor. Could his account be amended in order to accommodate, for example, democratic forms of political participation? My question in this paper, however, is more specific. I am asking what reasons Hegel has for thinking that some *one* individual is to perform the role of representing the family in civil society. In other words, why does the family need a “head” at all, irrespective of this head’s gender?

10.5 Singularities and Heads

My proposal is that it is the status of the family as a singularity, specifically a single *person*, which Hegel believes calls for representation of a specific kind. He writes:

The family, as the immediate substantiality of spirit, has as its determination the spirit’s feeling of its own unity, which is love. Thus, the disposition [appropriate to the family] is to have self-consciousness of one’s individuality within this unity as essentiality which has being in and for itself, so that one is present in it not as an independent person but as a member.

(PR §158)

In the next paragraph he adds:

The right which belongs to the individual [*Einzelnen*] by virtue of the family unit and which consists primarily in his life within this unit takes on a legal form, as the abstract moment of determinate individuality [*Einzelheit*], only when the family begins to dissolve.

(PR §159)

In these passages, Hegel is playing with two different senses of individuality, singularity, or *Einzelheit*. It can refer to an individual in the ordinary sense, an individual human being. But the term can also refer to a singular item. Even individual states can be regarded as singularities, though they are also comprised of individuals in the former sense. Hegel’s point is that, if we consider ethical life as our unit of investigation, it is families that occupy primarily the status of singularities, with the state serving as their universal determination.³⁵

There are two ways of thinking about the family’s status as a singularity. We can view it in light of Hegel’s conception of what he calls the concept.

Previously we saw that the concept must divide itself up by creating internal differences. As Hegel argues in his *Science of Logic*, the concept must divide itself into three “moments”: singularity, particularity, and universality. This structure is the necessary, but remarkably minimal requirement that any social order would have to realize in order to count as rational. It dictates only that social orders have to incorporate three spheres that can be characterized along these conceptual lines.³⁶ In the context of the *Philosophy of Right*, the family maps onto the moment of singularity, civil society onto that of particularity, and the state onto that of universality. Ethical life hence displays the structure of the concept as such. What this means in the case of the family is that it functions as an individual in the social order. It is one way to spell out what it means for families themselves to become “persons,” rather than remaining a contractual agreement among multiple persons.³⁷

Hegel’s conception of families as persons also dovetails with his account of property. As he puts it, “The family, as a person, has its external reality in property; and only in the latter, in the shape of resources, does its substantial personality have its existence” (PR §169). In his chapter on Abstract Right, Hegel argues that property is personal, which means that it has its rational basis in personhood. This means for Hegel that it does not make sense to speak of collectively owned property, for communities understood as collections of persons are not the right sort of entity to be a property owner. So, if he wants to be able to conceive of the family as a singular unity whose members all jointly own the family’s property and have an automatic right to derive a share from it, he needs the family itself to constitute a single person. It is for these reasons that Hegel rejects the contractual model of marriage, which is only intelligible as an agreement between two independent parties. Recall that marriage is a process whereby two individuals agree to “constitute a single person and to give up their natural and individual personalities within this union” (PR §162). It is a transformative process whereby two persons literally become one. The personhood of the family also incorporates children, since children’s right to share in the family’s resources is so self-evident that it usually does not have to become explicated or demanded.

My aim so far has been to bring into view two structural features on which Hegel’s justification of a gendered division of labor substantially relies. The first is the requirement that there be mediation between social spheres. The second is the requirement that the family constitutes a singularity in the context of the social order. Although these requirements do not imply anything directly about gender roles, Hegel thinks that they indicate that families need one head, namely, some individual to serve a representational role. Let us now attempt to follow this train of thought.

When Hegel claims that the family requires a publicly recognized head, a single person who represents the family’s interests as a single person, he is implying that it is in virtue of the family’s status as an individual that it requires representation by an individual. If he didn’t intimate such a connection between the individuality of the family as a whole and the individuality of

an individual member of this family, he wouldn't have a reason to discount the possibility that *both* members of a married couple can jointly represent the family unit.³⁸ Note that Hegel does not express the same demand in the transition from civil society to the state. He does not require that it be one individual member of an estate who represents all other members in political contexts. Rather, he speaks about the election of "deputies" (PR §311), which indicates that it could easily be a subset tasked with this mediating job. Why is it then that, in the case of the family, it is to be one? It seems to me that Hegel is here relying on an implicit identification between the two senses of individuality in a way that threatens to conflate them. If Hegel were arguing for the necessity of a family's head, his equivocal use of this term would constitute a weak link.

Consider Hegel's analysis of the transition between the family and civil society. In the transitional paragraph, Hegel writes,

The family disintegrates [*tritt auseinander*], in a natural manner and essentially through the principle of personality, into a plurality of families whose relation to one another is in general that of self-sufficient concrete persons and consequently of an external kind.

(PR §181)

We now have multiple families, each of which counts as a person, and each of which is only externally related to other persons, which means that it stands in possible contractual relations to them. In the opening paragraph of the chapter on civil society, Hegel writes, "The concrete person who, as a *particular* person, as a totality of needs and a mixture of natural necessity and arbitrariness, is his own end, is *one principle* of civil society" (PR §182). This statement is ordinarily read as an indication of Hegel's belief that civil society provides a context in which individual self-interest is given free reign, unconstrained by care for the needs of others. What has escaped notice is the ambiguity in the term "person" as it appears in this sentence. Is Hegel referring to the individual family member, whom he goes on to call the "son" of civil society, or to the family as a whole? All signs suggest that he is referring to both – the person of the family as it is represented by its (male) head.³⁹

Hegel is trying to get us to accept that, if the family is indeed an individual person, it is to be represented by an individual person among its member. And given his assumptions about which member has the qualities best suited to this task, he thinks he has thereby justified the gendered division of labor prevalent in his own time. Interestingly enough, this kind of justification does not appeal to the difficulty of different projects and makes no claims about the ability of one and the same individual to be at once a good caregiver and a good breadwinner. Rather, it relies predominantly on a conception of the family as a singular unity.

Where it falters, in my eyes, is in giving the impression that this mode of representation is necessary to a rational social order, for the sheer fact that

the family is an individual person does not necessitate that it be represented by an individual person. To think so would be to equivocate between two different senses of individual personhood. At most, Hegel has shown that the concept of a head is justified as one adequate form of representation, not that it is the only adequate form. So, the force of the imperative issued to families to designate the husband as “head” is significantly weaker than it initially appeared.

10.6 Criticisms

Let us pause and take stock of where we are in our reconstruction of Hegel’s argument. What we have shown so far is that Hegel has the resources to justify a gendered division of labor in a highly qualified sense: he can successfully show that the gendered division of labor manifests deeper structures that are necessary to a rational social order. What he has not thereby shown is that the gendered division of labor is itself a necessary form of manifestation, so that these deeper structures could not also be manifested in other ways. Even if we were to accept Hegel’s premise that the family is an individual person and that its unity needs to be represented in the transition to civil society, a family could in principle be represented by two (or more) family members. And even if we were to accept that a family needs a head, i.e. some one individual to perform the mediating role, this head could in principle be either member of a married couple, or both members by taking turns. We are not compelled to conclude that a gendered division of labor as a form of mediating labor is essential to ethical life.

We are not even compelled to conclude that dividing mediating labor along gender lines is an *optimal* social arrangement. As many feminist critics have pointed out, Hegel himself suggests reasons to be critical of a gendered division of labor, even if he does not draw a critical conclusion. I should mention that the reasons I will here foreground are those that would have been available to Hegel, given his historical situation and his philosophical project as it is explicitly presented in the *Philosophy of Right*. There are, of course, many reasons to be critical of a gendered division of labor that exceeds these two conditions. There might even be reasons loosely inspired by Hegel to be critical of a gendered division of labor.⁴⁰ I will not discuss either of these in this context.

The first reason that would have been available to Hegel is that a gendered division of labor deprives women of the opportunity to develop the skills of doing mediating work by negotiating and balancing demands that arise from diverse social spheres. I think that this reason would have been available to Hegel because he claims that women’s relation to ethical life resembles Antigone’s since both identify immediately and exclusively with their familial roles. Perhaps Hegel did not stop to consider the following implication, that on his view women would be so to speak a remnant from Ancient times as if culled directly from the Greek polis. It does not seem as if their attitude

toward their social world is on his account fundamentally different from Antigone's, which was deemed deficient and pernicious in the *Phenomenology of Spirit*.

Hegel admittedly does not share our contemporary intuition that a gendered division of labor excludes women from economic and political participation, since Hegel thinks women are indeed present – through representatives – in these other spheres. They are present as members of the person, embodied by the head, who participates in civil society and the state.⁴¹ It is the kind of rationale that was used in order to deny women suffrage, since it was claimed that women already do vote through their husbands, who speak on behalf of the family of which they are a member. It is also the kind of rationale that was used against demands for equitable pay, since it was claimed that men (unlike women) are required to provide for their entire household. But even Hegel would have to agree that no one develops skills mediately, via a representative. This indicates an important respect in which women cannot be genuinely present in these other spheres.

The second reason is that a gendered division of labor makes women economically vulnerable, of which Hegel was well aware. Here it is worth noting that Hegel acknowledges a gulf between the “idea” of the family, which articulates an ideal, and the reality of families, which often fall short of realizing it.⁴² When Hegel writes about the disintegration of the family, he has in mind not only its ethical dissolution into multiple family units but also its exposure to contingency and arbitrariness (PR §171). As he points out, when families disintegrate, the legal standing of family members as independent persons rears its head:

In this situation those who should be members, become in their disposition and actuality independent persons, and they now receive separately and in a purely external manner what was formerly their due as determinate moments within the family (financial resources, food, costs of education, etc.).

(PR §159)

Such disintegrations leave women in an especially precarious position. Although Hegel does not conclude from this that women ought to become economic agents, he does claim that it underscores the importance of an official marital contract, which gives them a publicly acknowledged right to share in their husband's income, even in those cases in which the family has fallen apart.⁴³

These are two reasons to be worried about the potentially harmful effects of a gendered division of labor, reasons that would have been at Hegel's own disposal. But I do not think that they reveal Hegel's position to be inconsistent, as some scholars have claimed. According to the interpretation I have presented, Hegel does demonstrate that the gendered division of labor is one concrete actualization of structures that constitute a rational social order.

But Hegel has not demonstrated that such a division of labor is a necessary component of a rational social order, or that it is all things considered the most optimal. Dividing labor along gender lines is simply one way in which the underlying conceptual form of ethical life can be made concrete. It does not exclude possibilities for organizing social life very differently. But then again, if I am right, doing so was never Hegel's aim.

10.7 No Utopia

The last topic I want to consider is Hegel's method in his chapter on ethical life, where he is describing a set of institutions and practices that bear a striking semblance to those he would have witnessed in his own time.⁴⁴ I indicated that the gendered division of labor can serve as a case study by which to reflect on Hegel's methodological commitments in the *Philosophy of Right*. It yields an opportunity to ask how Hegel arrives at this concrete description of ethical life and what status it bears in this project. In light of our answer to these questions, we can then assess a selective approach to Hegel's text. Can we legitimately pick and choose which elements we want to keep and which we want to reject? For instance, can we dispense with his views about men and women, but preserve those we prefer, such as his defense of corporations as quasi-labor unions that protect economically precarious workers? Or are those of us who are sympathetic to Hegel's project saddled with the whole picture?

What I want to suggest is that, in order to understand Hegel's method, we have to reckon with its anti-utopian purport. In other words, we have to recognize that ethical life as he describes it is deliberately no utopia. Even though Hegel takes the chapter on ethical life to provide us with a picture of a well-functioning society, at least reasonably so, one in which the essential functions of a rational social order are being fulfilled, he does not take it to reflect an ideal under all circumstances, especially not under future social and political conditions. It is crucial that we take seriously the fact that Hegel is not a utopian political philosopher, who believes that his preferred set of social arrangements captures a utopian vision. Although he can be described as an "ideal theorist" in a certain respect, since he is concerned with articulating the *idea* of freedom, his philosophical conclusions are far more modest than is usually acknowledged.⁴⁵

One piece of evidence is the fact that Hegel incorporates obvious problems into his description of ethical life. The clearest example is his discussion of poverty, which Hegel identifies as an unavoidable side effect of civil society, even when it is functioning optimally on its own terms, since its "inner dialectic" (PR §246) generates mass unemployment. He concludes, "despite an excess of wealth, civil society is not wealthy enough – its own distinct resources are not sufficient – to prevent an excess of poverty and the creation of a rabble" (PR §245). Although he goes on to show how various institutions in civil society, such as corporations and the police, mitigate some of the

damage, it is clear that he does not think of them as fully successful solutions to the problem of poverty. Here we have an example of Hegel admitting the shortcomings of ethical life as he is describing it, even though he does not consider them to be fatal flaws that speak against its status as a manifestation of a rational social order.⁴⁶ So, you might think that Hegel is not a utopian philosopher because he accepts that what he presents as ethical life is not perfect. He is being realistic about the problems that accompany his preferred set of social arrangements.

A more significant piece of evidence, however, is Hegel's remarks in the Preface. He famously warned that philosophy always comes too late to issue instructions about how the world ought to be. His point is not that philosophy should not be concerned with ideals, only that its access to any ideal is contingent on this ideal's realization.

When philosophy paints its grey in grey, a shape of life has grown old, and it cannot be rejuvenated, but only understood, by the grey in grey of philosophy; the owl of Minerva begins its flight only with the onset of dusk.

(PR 23/TWA 7:28)

One way to read this passage is to say that Hegel takes himself to be the beneficiary of a long historical process, which has culminated in the ethical life he is indeed living. This makes him genealogically lucky,⁴⁷ namely, epistemically equipped to articulate an ideal social order because he is fortunate enough to be inhabiting one. But a more compelling reading is to think of this as an admission of humility on Hegel's part, that Hegel is telling us that he can articulate an ideal only to that extent to which his historical horizon permits. There might be an even better set of social arrangements that are beyond his limited grasp and that await articulation by a future philosopher, who follows his lead. So, you might think that Hegel is not a utopian philosopher because he does not hold up ethical life as an eternal ideal.

This methodological modesty becomes apparent once we take a closer look at his procedure. To provide a brief overview, in the first part of the book – the introduction, as well as the chapters on abstract right and morality – Hegel is starting with the most minimal determination of freedom (as a free will that wills a free will) and then examining what further determinations are implied by this concept. Although his eye is always on the actualization of the concept of freedom, he is engaging in what can be described as a conceptual analysis, which does not appear to presuppose empirical knowledge of the contingent social world Hegel happens to be inhabiting. When he gets to the chapter on ethical life, which is supposed to present the foundation of both abstract right and morality, we have a full-fledged return to this world.⁴⁸ This raises the question of how we have gotten there and whether Hegel's turn to the institutions and practices of ethical life is supposed to be a further implication of his conceptual analysis, akin to a deduction that proceeds entirely from the concept of freedom.

Hegel's occasional references to the *Science of Logic* in this text have led some interpreters to insist that Hegel's political philosophy must be a priori and that his conclusions cannot rely on his familiarity with any specific institutions and practices.⁴⁹ But there is another way to read Hegel's references to the *Science of Logic* that make far better sense of his text. Hegel is not invoking it in order to indicate that he is engaging in an a priori "deduction" of ethical life, but in order to indicate precisely the opposite, that it is part of his job as a philosopher to grasp his object (in this case ethical life) as it is factually constituted. What the *Science of Logic* itself teaches is that a philosophical method must be a matter of discovering the concept's essential structure as an animating principle of that which is present. Such an approach would have to be empirically informed, if it is an investigation that is to do the concept's reality justice.

This indicates that Hegel is indeed shifting gears in his chapter on ethical life insofar as he is no longer examining the concept of freedom in isolation, but beginning with his social world as it is as it appears in space and time and attempting to discern conceptual structures in it. Such an approach proceeds from an optimistic assumption that such structures will be found. In other words, Hegel is expecting to discover a rational basis in the institutions and practices prevalent in his own time. It is important to note, however, that this approach is not as biased as it may sound. For one, Hegel's assumption is not indefeasible, since it is possible that a rational basis will not be found, because the essential structures that issue from the concept as such and from specifically the concept of freedom are not manifest in this particular case, or only manifest in a partial and deficient way. For another, the discovery of such a structure is not a cause for celebration, since it doesn't mean that there isn't anything worth criticizing in the social order that exhibits it. There could be all sorts of reasons to challenge these institutions and these practices, even if they have a rational basis in Hegel's sense.⁵⁰

What makes Hegel's method nonetheless conservative in a certain respect is that it takes his existing social world as its starting point. Earlier I said that Hegel is offering a limited defense of his preferred social arrangements. Of course, he would disapprove of my description, because it makes it sound as if he were merely airing his personal preferences. He would respond that what makes his view objective is the fact that he is describing the social world *as it is*, rather than painting pies in the sky, so to speak. His object of study is itself objective, not a mental construct. But it means that Hegel does not consider political philosophy to be a domain in which the imagination plays a substantial role. When we are engaged in political *philosophy* in his sense, we should refrain from positing utterly unrealized ideals, because we have then abandoned genuinely objective constraints on thinking. Our object is the idea of freedom, the ideal only insofar as it is realized. I take this to be a fundamentally anti-utopian enterprise. It not only does not purport to present a utopian vision of an ideal world, it even rejects doing so as philosophy's proper task.

We are now in a position to return to our example of the gendered division of labor and reconsider which attitude we are to adopt to its inclusion in

Hegel's *Philosophy of Right*. We are left, however, without a clear answer. By foregrounding the rational basis that underlies it, Hegel promises to shed light on its intractability. If Hegel is right that traditional gender roles manifest deeper structures of rationality in ethical life, as well as represent convenient solutions to the natural pressures exerted on families, then we have one possible explanation of the longevity they have shown into our present.⁵¹ But Hegel's position also does not offer a guide as to how we are to evaluate this gendered division of labor in light of social and political developments that have exceeded his historical horizon. And as I have stressed, his justification of traditional gender roles does not exclude the possibility that these could, or even should be radically different.⁵² Without wanting to discourage us in our capacities as participants in ethical life from imagining new and hopefully better alternatives, he simply did not believe that constructing utopias in thought belongs to the work that he as a political philosopher is called to do.⁵³

Notes

- 1 I am grateful to Rolf Horstmann, Jake McNulty, Karen Ng, Terry Pinkard, and Francey Russell for helpful feedback on earlier drafts of this paper. Thanks also to Stefan-Ludwig Hoffman for reading recommendations and to the participants in the conference "Hegel's *Philosophy of Right*: A Conference in Honor of Terry Pinkard" for a lively discussion.
- 2 It has proven difficult to find detailed accounts of domestic labor from this time, presumably because it was rarely explicitly thematized. This description is based on Pinkard's research into Hegel's era.
- 3 Pinkard, private correspondence.
- 4 This is an important term in socialist feminism, especially in the Wages for Housework movement in the 1970s. For an analysis of the concept of reproductive labor and the difficulties it poses for Hegel's understanding of labor as externalization, see Scholz (1993).
- 5 Hegel's comments about women in the *Philosophy of Right* are evidently class-specific. As Hegel would have been well aware, poor women are not afforded the luxury of finding their substantial vocation at home. Also, his description does not apply to women in the agricultural sector. Although Hegel discusses different cultural practices as they pertain to the marital contract, he does not take other forms of difference into account. By way of contrast, Davis (1981) describes a process starting in the 1930s whereby white (American) women's labor in the home was transformed by industrialization. This process produced the "cult of motherhood," as well as a practice of "leaning down," with Black women in large numbers becoming employed as domestic workers.
- 6 See Geuss: "It seems to be a stretch to call housecleaning a vocation, even though there is no doubt that it is useful, and some people are better at it than others." (Geuss 2021: 50). Of course, it is not clear to what extent housecleaning would have belonged among Marie's tasks.
- 7 See Hausen (1978) for her research into the intellectual history of "gender characters," in particular her analysis of lexicons and similar texts, which articulated these conceptual resources.
- 8 As Alison Stone has put it,

Hegel, then, is not offering a value-neutral description of the gender division of labor as it was crystallizing in modern Europe, but a normative

redescription of that emerging division, a redescription in which this division and the family structure bound up with it form essential aspects of reason's progressive self-actualization in the modern social world.

(Stone 2012: 145)

- 9 Here my view is diametrically opposed to Halper, who concludes that Hegel's "account cannot stand without these differences [in sex roles]" (Halper 2001: 858). I think this rests in a misunderstanding of Hegel's aims.
- 10 "Many feminist scholars have argued that these views do not merely reflect Hegel's acceptance of the prejudices of his time, but follow from his legal and political philosophy more broadly, in a way that makes Hegel's entire political philosophy problematic from a feminist viewpoint" (Stone 2014: 104). See also Pateman (1988: 173): "Hegel's arguments are fatally compromised by his acceptance of the sexual contract."
- 11 Pinkard (1996: 304). Wood calls Hegel's views "quaintly repugnant reminders of the social practices of Hegel's age and the prejudices of his class" (Wood 1990: 243).
- 12 Deranty (2000) argues that Hegel is appealing to nature in an illegitimate way. Landes (1981) argues that Hegel's views on women violate his commitments to a conception of civil personality and modern agency. Wood (1990) and Pinkard (1996) also suggest that there are internal tensions in Hegel's position.
- 13 The global pandemic has exacerbated the fact that women carry a significantly greater portion of the burden of housework, especially within marriage.
- 14 Exertion seems to be indispensable for differentiating work from play and leisure. There is a threat of defining work so broadly that every socially valuable activity counts as work. Thanks to Karen Ng for this point.
- 15 As Federici writes in her essay "Wages Against Housework," "the unwaged condition of housework has been the most powerful weapon in reinforcing the common assumption that housework is not work, thus preventing women from struggling against it" (Federici 2012: 16). It took feminist thinking in the twentieth century to show that care work is indeed labor, thereby expanding the concept's scope. It is also worth noting that a salary or wage could not have been essential to Hegel's concept of work, since it would only apply to the bourgeoisie, and not to professions performed by the nobility.
- 16 This is beyond the scope of my paper, but Hegel thinks that a religious reverence is integral to family life. We can see this in the fact that marriage ceremonies traditionally take place in religious institutions.
- 17 See Hausen (1978) for a discussion of domestic labor and early childhood education.
- 18 "Since marriage contains the moment of feeling, it is not absolute but unstable [*schwankend*], and contains the possibility of dissolution in itself. But legislations must make such dissolution as difficult as possible and uphold the right of the ethical against caprice" (PR §163A).
- 19 "The first moment in love is that I do not wish to be an independent person in my own right and that, if I were, I would feel deficient and incomplete. The second moment is that I gain [*gewinne*] myself in another person, that I count [*gelte*] for this person, who in turn does so for me" (PR §158A).
- 20 In these notes, Hegel is comparing modern marriage favorably to chivalry and polygamy, placing it on a spectrum between these two extremes. In the case of chivalry, women were placed above men, and in the case of polygamy, they were placed below men (and treated like slaves). It is telling that Hegel entertains only historical alternatives, not models of marriage that have not yet been put into practice. I am grateful to Terry Pinkard and Chris Yeomans for a discussion of these passages.

- 21 See Katz (2020) for an interpretation that argues that Hegel believes equality in marriage to be compatible with hierarchy outside of marriage.
- 22 Deranty has accused Hegel of making this mistake. He writes humorously,

On the other side, the sexual basis of male activity in the outside world is justified by a Lacan-style metaphor or play on words. The one who can get hard (“sich spannt”) is also the one who can harden himself for the struggle against the outside world.

(Deranty 2000: 156)

- 23 PhG ¶476. See Ravven (1988) for connections between Hegel’s conception of the modern family and his account of the Ancient Greek polis. According to Ravven, Hegel’s reasons for criticizing the Ancient Greek polis as an unreflective, undifferentiated, and ultimately natural harmony are the same reasons to criticize the modern family.
- 24 “The unity of marriage, which in substance is mere inwardness and disposition but in existence is divided between the two subjects, itself becomes in the children an existence, which has being for itself, and an object, which they love as their love and their substantial existence” (PR §173).
- 25 Beauvoir expresses this connection more strongly: “Because housework alone is compatible with the duties of motherhood, she is condemned to domestic labor, which locks her into repetition and immanence” (Beauvoir 1949: 73).
- 26 Pinkard:

Yet Hegel is not making these claims on the basis of any natural differences between men and women but on the basis of what is required for agents in general in the modern world to have a coherent self-understanding and to be free.

(Pinkard 1994: 305)

- 27 “The education of women takes place imperceptibly, as if through the atmosphere of representation [*Vorstellung*], more through living than through the acquisition of knowledge, whereas man attains his position only through the attainment of thought and numerous technical exertions” (PR §166A).
- 28 This insufficiency is clearer in the second case, that one would have to know both universal purposes and be able to recognize them as realized in singular contexts in order to count as knowing in the full sense. But you might also think that knowing ethical life is going to include an affective dimension, which women would then contribute.
- 29 Hausen (1978) analyzes the emergence of these gender differences as both the consequence of the gendered division of labor and a means for ideologically justifying this division, warning bourgeois women against seeking work outside their homes. Her analysis also shows that Hegel’s conceptual distinctions between universality and individuality, as well as thinking and feeling, as applied to sexual difference were widespread in the discourse of his time.
- 30 Since we only have two conceptual determinations – individuality and universality – it may seem that civil society (the realm of particularity) is left out of the picture. But it is important to note that particularity is nothing but a specification of universality, which means that both civil society and the state are domains in which an aptitude for “universal purposes” is going to be advantageous.
- 31 O’Brien claims that the duties associated with biological reproduction could not count as a free project in Hegel’s sense, “because childbearing was not a rational choice in the precontraceptive age” (O’Brien 1996: 188).
- 32 This is the flip side of Stone (2014). According to Stone, “Hegel also believes that some people must be permanently stationed in each of the earlier spheres, that is in the family and in civil society” (Stone 2014: 105). According to my reading,

- Hegel thinks that some people must perform the work of mediating between spheres. This implies that whoever is not performing this mediating work would be “permanently stationed” in the previous sphere.
- 33 This is not to deny that some university professors will not also be mediators, presumably because they do not (or not yet) have a family.
 - 34 Stone writes: “Evidently, underpinning Hegel’s conception of the political organism is the idea that its organic form is animal, not vegetal” (Stone 2012: 156). She argues that, if had Hegel conceived of the state on analogy with plants as some of the Romantics did, he could have arrived at a less mediated picture of social participation.
 - 35 This does not exclude the emergence of other singularities in civil society. At (PR §239) Hegel refers to civil society as a “universal family” that has the duty to educate children.
 - 36 According to Hegel’s analysis of Ancient Greek ethical life in the *Phenomenology*, it was comprised of only two social spheres – the family and the state – and so did not exhibit the three-fold structure of the concept (see PhG ¶461).
 - 37 “That identification of personalities whereby the family is a single person and its members are its accidents... is the ethical spirit” (PR §163).
 - 38 There isn’t always a male head at hand. For example, a widow might be called upon to represent her family, which means that there could arise circumstances in which this representation role cannot be fulfilled by a man or husband. But again, these are not counter-examples, since Hegel is articulating the idea of the family, of which existing families sometimes fall short.
 - 39 Hegel could also be referring to a bachelor, someone who is not (or not yet) married. The workforce is not only composed of heads of families. But Hegel does not consider the family in this context to be an optional institution – he even claims that people have a duty to marry. According to Halper, “[w]e must ask, then, just what the family contributes to these acts if they could just as well be performed by an unattached man?” (Halper 2001: 831).
 - 40 Some might be inclined to think that the gendered division of labor constitutes a tension (or contradiction) on its own terms. Even if this were the case, it wouldn’t mean that Hegel is contradicting himself in offering a defense of it. As I read him, Hegel’s method does not imply that his preferred social arrangements are necessary, optimal, or free of tensions (or even contradictions) that could surface down the line.
 - 41 Pateman brings out the ambiguity of women’s simultaneous presence and absence in Hegel’s picture. Although the “wife disappears as a civil personality” (Pateman 1996: 214), she is “incorporated into the political order through the marriage contract” (Pateman 1996: 217).
 - 42 “The subject-matter of the *philosophical science of right* is the Idea of right – the concept of right and its actualization” (PR §1). As this statement makes clear, the term “idea” refers to not a mere ideal, but a realized ideal.
 - 43 Although this is a slightly different context, Hegel writes:

On the relation between man and woman it should be noted that a girl gives up her honor in sensuous surrender, which is not so much the case with a man, who has another field of ethical activity apart from the family. A girl’s vocation [Bestimmung] consists essentially only in the marital relation.

(§164A)

His point is that the marriage contract has the important function of protecting women.

- 44 What I am about to say does not presuppose that Hegel is describing his social world faithfully. He may be exaggerating elements in order to emphasize the underlying structure. He also makes suggestions – for instance, when he

- recommends bringing back corporations (PR §255A) – that go beyond his social world as it currently exists. But even here Hegel is not imagining corporations that have never existed, only lamenting their recent abolition.
- 45 See Moyar (2021: 3–7), for a discussion of Hegel’s approach in relation to realism and idealism in politics.
 - 46 On the question of whether poverty constitutes a contradiction in Hegel’s account of civil society, see Novakovic (2017: 134–43).
 - 47 I am borrowing this phrase from Srinivasan (2019).
 - 48 This result indicates that even the first part already presupposed empirical knowledge of the contingent social world insofar as it takes the actualization of freedom for granted in its analysis of the concept.
 - 49 There is a long tradition of thinking that Hegel’s appeal to a “logical” method means that he is proceeding independently of experience. To cite one example, Halper writes, “As far as I can see, Hegel’s use of sex roles in his account of the family owns nothing to empirical observation; rather, it depends...on abstract conceptual relations that he develops in his *Science of Logic*” (Halper 2001: 818). First of all, the one does not preclude the other. Secondly, it is wildly implausible that Hegel’s account could owe *nothing* to empirical observation. It would make it a remarkable coincidence that there is any resemblance between Hegel’s account and the conventional bourgeois family during his own time. It would also mean he would be performing the unbelievable feat of inventing the family with recourse to only a set of formal conceptual determinations (according to Halper, “individuality” and “universality”).
 - 50 Hegel’s method does impose some constraints that any social change would need to accommodate. It holds that unless new social arrangements also manifest essential rational structures, they will lack the “vitality” to sustain themselves in the long run. As I have been emphasizing, these constraints are strikingly minimal.
 - 51 Stafford (1997) suggests that Hegel’s position continues to be of interest to feminists because it clarifies the limits of liberal individualism and the (second-wave, middle-class) feminist assumption that the liberation of women must take the form of professional self-actualization.
 - 52 Can there be a nuclear family without traditional gender roles? Neuhouser has argued that Hegel’s conception of marriage is flexible enough to extend to gay marriage as its “creative reconfiguration” (Neuhouser 2000: 277–8). Halper claims that, without these gender roles, “the family [for Hegel] becomes an empty shell” (Halper 2001: 818).
 - 53 Although Wood believes there to be a tension in Hegel’s account of gender roles, because Hegel is attempting to combine principles that do not go well together, he also makes the following claim: “It is understandable, if not admirable, that many fear the unknown path to new possibilities more than the present contradictions they are living” (Wood 1990: 246). It may be true that Hegel became wary of social change and argued polemically against it. But I do not see any reason to think that Hegel had philosophical grounds for seeing this fear as admirable.

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11 Debt and the Limits of Freedom in Market Society

Kate Padgett Walsh

Debt first originated, anthropologists have shown, in practices of gift giving in early human communities (Mauss 2002; Peebles 2010). We still incur non-monetary debts in this way, not just by exchanging presents, but also by aiding and sharing with one another in various ways. However, while such forms of debt pre-date the advent of money, the rise of money as a means of quantifying and reckoning debts has transformed human life in a myriad of ways, by making and destroying governments, creating opportunities, and condemning untold millions of people to slavery (Graeber 2011; Geisst 2013). Yet, we are accustomed to thinking about financial debt, and especially household debt, in a narrow way, just as a private matter. The narrowness of this framing, however, has been the target of criticism by contemporary scholars (Ahn 2017; Martin 2002; Lazzarato 2012). Drawing upon Nietzsche's critique of the roles that debt plays in modern life, they argue that debt is not merely a contingent feature of the financial lives of a few; rather, it is a fundamental social relation that shapes and constrains our lives together.

This paper explores what it would mean to approach the ethics of debt by assessing how well financial debts promote or, alternatively, diminish, freedom. More specifically, I argue that Hegel's tripartite account of freedom offers a conceptually rich way of approaching the ethics of debt, one that helps to illuminate the variety of impacts of financial debt upon personal, moral, and social freedom today. Debts can create choices, but also impose inflexible constraints that reduce personal freedom. Moreover, debts impose an imperative of repayment that can undermine moral freedom by subordinating other values to the demand for payment. And debts can undermine social freedom by warping the practices, institutions, and relationships of our shared social world to serve the interests of those who profit from mass indebtedness.

11.1 Freedom and Debt

Human freedom, Hegel argues, is an achievement of the modern world. Although the concept originated with the ancient Greeks, only in modernity is freedom finally realized. The Greeks regarded only citizens of the polis, a relatively small percentage of the population, as capable of being free.

In contrast, fundamental to modern life is a commitment to the idea that all persons, not just a few elites, can and should be free (Pinkard 2017a). Modern societies have crafted governments and laws, but also social practices, institutions, and ways of relating to one another, to promote three kinds of freedom: personal, moral, and social (Neuhouser 2009). First, agents in modernity demand personal choice in how we live our lives, protected by property rights and contract law. Second, modern agents stress moral freedom, that each individual should decide for themselves how to act, based on their own understanding of what is morally right and wrong. And third, modern agents insist that the social practices, relationships, and institutions in which we are enmeshed be ones that we can identify with and rationally endorse, rather than finding them simply imposed on us by others.

This tripartite conception of freedom can be used to evaluate how well freedom is actually realized in the lives of human beings today. And one central aspect of modern life is participation in market-based economic activity. Markets, Hegel observes, are built around exercises of personal choice, such that agents express their interests by transacting with one another as they see fit. In contrast, the feudal economies in Europe that preceded modern market economies were dominated by the interests of powerful elites, leaving most people with very few choices. The modern development of legal protections for property rights thus represents a crucial advancement in personal freedom. Markets are also, however, an important potential locus of moral freedom. Market participation generates moral quandaries and challenges as individuals attempt to decide for themselves which how to treat those with whom they transact and which principles to follow. And, finally, markets contain a complex array of social practices, relationships, and institutions that frame our preferences and moral views, and thus represent an important potential locus of social freedom as well.

The rise of mass indebtedness, however, challenges Hegel's optimistic assertion that markets promote freedom. Building upon Nietzsche's critical account of debt in the *Genealogy*, contemporary scholars have documented the negative impacts of mass indebtedness upon many varied aspects of life, including education, criminal justice, housing, health, personal relationships, and even the environment (Joseph 2014; Hunter and Murray 2019; Montgomerie 2019). The key Nietzschean insight is that debts are highly moralized relationships between people, ones that can shape and (de)form our thoughts and motives, but also our self-understandings and interactions with one another. And our fundamental normative concepts are not immune from this effect, the anthropologist David Graeber argues. Echoing Nietzsche, he contends that even 'freedom' is too intertwined with exploitative power structures and the debts imposed to sustain them to be of use in normatively assessing different forms of financial debt (Graeber 2011).

11.2 The Limits of Personal Freedom

It is my contention, however, that Hegel's rich account of personal, moral, and social freedom can advance our understanding of the normative dimensions

of financial debt today. First, consider how debts reflect and impact personal freedom. Personal freedom is grounded, Hegel contends, in the modern emphasis on property rights and contract law, which enable us to transact with others as we choose, protected from unwarranted intrusions. Regarding debt specifically, it is the free choice itself of whether to borrow and lend that is protected by property rights and contract law in modern societies. Underlying the modern insistence on such free choice, Hegel notes, is the abstract concept of legal personhood (PR §34A). Lacking this concept, feudal societies failed to check the power of elites and thus failed to provide legal protections from fraud and coercion (PR §36). And essential to the development of legal personhood, he observes, was the rise of modern property rights and contract law (PR §62). Property is “the first existence of freedom,” Hegel claims, i.e. it is the historical condition under which individuals were first respected as legal persons, free to transact with one another as they choose (PR §45). Property rights and contract law are themselves essentially “coercive,” he notes, but only in service of personal freedom more broadly (PR §94). They specify what is not permitted in market transactions, i.e. fraud and coercion, leaving untouched questions of what, positively, should be done amongst permitted options (PR §38).

More specifically, the notion that debt enables personal freedom first arose in early modern thought. Ancient and medieval thinkers such as Aristotle and Aquinas had critiqued usury as exploitative and unnatural, arguing that it functioned primarily as a way for people of means to further enrich themselves by preying upon those in need (Niewdana 2015; Padgett Walsh 2018). However, modern thinkers such as Adam Smith and Jeremy Bentham rejected this critique (and the term ‘usury’ for its negative associations) as outdated, arguing instead that access to credit is actually liberating (Herzog 2017; Padgett Walsh 2018). Credit creates investment opportunities for debtors and lenders alike, and thus contributes to economic growth, which promotes freedom by making more choices available to people. And, far from exploiting the poor, debt creates possibilities for social mobility by enabling those of modest means to invest in education and other opportunities. This modern defense of lending has transformed not only our understanding of debt but also the laws and norms governing it, by representing debt as an advance of personal freedom in the modern world.

The Hegelian claim is that debts today thus exemplify the strengths of property-based protections of personal freedom, but also illustrate the limitations of those protections. To see this, we must look beyond Hegel’s own texts, in part because he does not address the topic of debt for any extended length in his writings. Hegel himself was at times a debtor (Pinkard 2000: 232–3), but he appears to have paid little attention to the question of how debts specifically impact personal freedom. Hegel does, however, focus in his brief discussions of debt on classifying the different kinds of contracts that give rise to debts (LPR 44). And in so doing, he anticipates one of Nietzsche’s claims, that debts should not be understood just in terms of lending decisions or personal finances. Rather, debts are inherently social; they are ways in which persons relate to one another. The two most obvious participants in a

relationship of debt are debtors and creditors, though there are often others involved as well, such as investors or debt collectors. The Hegelian contention is that the nature of these debt relationships, specifically whether they are based upon adequate legal protections for each of the participants, is essential to determining whether they reflect personal choice or, instead, a lack of such freedom.

Consider that debt does not, in fact, promote freedom for many people today. Instead, it functions as an essential mechanism of many kinds of slavery, including debt bondage, child labor, human trafficking, forced marriage, and even descent-based slavery. Today, an estimated 40 million people in the world are enslaved, very commonly through debt bondage. Debt bondage is a state in which a debtor's freedom is severely constrained while they are forced to work to pay a putative debt, typically without clear terms of repayment and with little hope of escaping the debt. This typically occurs when people have little choice but to take on debt in order to meet basic needs, but their poverty is so great that their only collateral or means of payment for the debt is their own freedom or that of family members. Throughout the world, especially but not exclusively in the global South, debt bondage enslaves farm and manufacturing workers, domestic workers, and sex workers. Such enslavement clearly precludes personal freedom, but it also thereby demonstrates just how important legal protections of personhood remain for debtors. The fact that tens of millions of people continue to be enslaved by debt reveals the persistence, in Hegelian terms, of failures to recognize personhood, either in the law itself or in its enforcement. Hegel himself regards slavery as an aberration in the modern world, an exception to the modern insistence upon rights and personal choice, which demonstrates the need for protection from fraud and coercion. And, he argues, rights of personhood cannot be signed away, as is often supposed to occur in "contracts" of debt bondage, because "rights of every kind can belong only to a person, and seen objectively, a right based on contract is not a right over a person, but only over something external to the person" (PR §40).

Yet, personal choice represents only one kind of freedom, one that is quite thin on its own in that it is negative and abstract. It is negative in that it is concerned only with protecting personal interests, as expressed in property and contracts, from coercive or fraudulent interference. Hegel notes, for instance, that while protections of personal freedom are essential in legal contexts, property rights and contract law are silent about the moral dimensions of promising more generally (LPR 33). A narrow focus just on rights of personhood thus ignores the broader moral dimensions of making, keeping, and breaking promises to others. This narrow focus excludes consideration of what we ought to do, positively, and how free the social world is more broadly.

The conception of freedom as personal choice is also highly abstract in that it excludes consideration of the thick historical and contextual features of our lives (LPR 11). To illustrate, consider the example of sharecropping,

a contractually-based form of tenant farming that arose in the U.S. after the Civil War. Lacking equipment, materials, cash, and, in many cases, land, newly freed slaves entered into contracts with white merchants and landowners to acquire the needed items on credit. In return, they promised to repay the debt after harvest. Described purely in the abstract, such a practice might not seem problematic. But, in reality, it was deeply problematic in at least two ways. First and most obviously, sharecropping contracts arose only in an economically and racially exploitative context, one in which the sharecropper's choices were severely circumscribed by inequality, domination, and terror. Second, actual sharecropping contracts were often extraordinarily punitive, and many were clearly designed to trap farmers in a cycle of ever-growing debt. For instance, some contracts forced farmers to use so much of their land to grow cotton that they couldn't grow enough food and thereby were forced to borrow more to feed their families. Other contracts specified burdensome work schedules, with high penalties if farmers could not work because of illness or injury. Moreover, contracts typically specified exorbitant penalties for default, penalties that effectively served to trap sharecroppers in a state that has been described by historians as re-enslavement. When Congress established the Freedman's Bureau in 1865, it was given the mandate of ensuring that labor contracts reflected the free interplay of market forces. The contracts, in other words, should not be based on coercion or deception. However, actual market forces at that time reflected arbitrary and unjust concentrations of power. Accordingly, the contracts that arose in such a market reflected, perpetuated, and even added to the inequality, domination, and terror experienced by ex-slaves and their descendants.

There is a clear loss of freedom when one must accede to the terms of an exploitative contract in order to work or feed and house one's family, but this loss of freedom is not obviously captured by a focus on property rights and contract law. Such a focus can even serve to obscure actual losses of freedom that occur, since the language of contract has repeatedly been used to provide cover for exploitation. Human trafficking and other forms of slavery, for instance, have been defended as contractual in order to disguise the social and economic necessities that force people into such arrangements. Hegel himself even argues along these lines at times, claiming that a coerced party is partly responsible for having been coerced, since "only he who wills to be coerced can be coerced into anything" (PR §91). In other words, he claims, when a person's rights are violated, it is in part because they allow themselves to be treated as less than a person.¹ Hegel thus, unfortunately, demonstrates just how easily the language of contract can be used to justify violations of the very rights that contract law is supposed to protect. Moreover, he shows less interest in understanding the necessities that drive people to enter into exploitative contracts than in determining how contract violations should be punished (PR 90). This focus leads him, at various points, to rationalize both colonialization and slavery, despite their obvious violations of personal freedom.

11.3 The Limits of Moral Freedom

In contrast to personal choice, moral freedom is the freedom to determine for oneself how to act and relate to others beyond simply avoiding engaging in fraud and coercion. We are free, morally, when we resolve for ourselves what to do, which principles to follow, and which positive responsibilities and obligations to uphold. Morality thus concerns how we should treat one another, positively, rather than just what we must refrain from doing to others, negatively (PR §112A). Essential to achieving moral freedom, Hegel contends, is a conception of individuals as moral subjects, that we are beings capable not just of choosing which desires to act on, but also capable of forming and acting on moral intentions (PR §105). The moral domain is thus concerned with “relationship, or obligation, or requirement,” since it pertains not just to what we are or are not permitted to do, but also what, more positively, we ought to do (PR §108). And it is because we can be free in this way, Hegel contends, that we can be held responsible for our own actions. Agents with moral freedom can understand their own behavior and are able to take ownership of what they do such that, as he puts it, they can attach “the abstract predicate ‘mine’” to their actions (PR §115). It is for this reason that neither children nor individuals with severe mental challenges are rightfully held fully responsible for behavior (PR §120). We are morally responsible, Hegel contends, only for actions that we can understand as such and recognize as being right or wrong (PR §132).

A focus on moral responsibility underlies a familiar understanding of debt, according to which we are morally obligated to pay debts that we knowingly incurred. Indeed, the familiarity of this moral outlook on debt is no coincidence, Nietzsche argues. Debts are not only relationships between people; they are highly moralized relationships, and the language of owing and paying debts pervades modern moral thought. Consider the notion that a debt to society is incurred when a crime is committed, or the idea, theorized by moral contractualists, that we owe certain kinds of treatment to others. The highly charged moral emotions of guilt and shame, Nietzsche argues, are also very much a part of the lived experience of debt, in part because they have been actively encouraged and inculcated in us by those who benefit from the indebtedness of others. And ‘debt’ and ‘guilt’ are conceptually intertwined in European thought, as the etymology of the terms in German makes clear. We feel guilt (*Schuld*) when we are indebted to others, and especially when we are unable to pay our debts (*Schulden*). This etymology, Nietzsche contends, reflects the deep influence of the morality of debt upon modern values and moral judgments.

It is notable, however, that moral arguments have historically given rise to important protections of debtors. Consider the example of debtors’ prisons in Europe, which were ultimately closed because distinctively moral arguments were mustered to sway lawmakers and the public.² One of the great triumphs of modern market economies, Elizabeth Anderson has argued, is

the expansion of freedom that resulted from imposing limits on the power of lenders and debt collectors (Anderson 2004). We can no longer, in advanced economies, become legally enslaved because of our debts or be remanded to a debtors' prison when we are unable to pay, nor are we required to be submissive as a condition of receiving credit. These developments, Anderson argues, represent real and important advancements in personal freedom. But, as scholars have documented, these protections of personhood were brought about in large part as the result of moral arguments that focused on abhorrent conditions in the prisons, the harmful effects of imprisonment upon families, and the challenges of reintegrating into society those who had been imprisoned for debt (Peebles 2013). The arguments were successful because they were paired with the rise of a now-familiar moral narrative about debtors that emphasizes individual responsibility for debts. Insolvent debtors, according to this narrative, deserve moral condemnation but not revocation of their rights as persons. Historically, then, extending protections of personal freedom to debtors was predicated upon a growing insistence on moral responsibility for debts.

Yet, there is also a deep tension between debt and moral freedom, as Kant notes in his discussion of servility. Debt, he contends, reduces us to a servile position in virtue of owing payment to others (Kant 2001). Debtors must live according to the dictates of their creditors, conforming their behavior to the expectations of others. They thereby lose independence and dignity, as they are subject at all times to the constraint of having to obey the demand for repayment. This demand insinuates itself throughout their lives, constraining future planning and present decision-making. Debt thus represents a real loss of freedom, but that loss is not entirely one of personal choice. Instead, it is a loss of moral freedom, the ability to act in a principled manner on the basis of one's convictions about what is right and wrong. Servility thus creates a morally compromised state, on Kant's view, in which debtors must conform their behavior to the demands of their creditors, even if it requires violating their own principles and convictions.

This argument is echoed by recent critics who argue that mass indebtedness today is distorting values and creating pervasive challenges to autonomy and integrity (MacIntyre 2015; Lazzarato 2012; Gourevitch 2012). Consider, for example, the explosion in recent years of educational debt in the U.S., which is increasingly having the effect of altering decisions about whether and where to attend college, as well as what to study, but also reshaping higher education (Shermer 2021). Student debt has enabled more people than ever to attend college and thus gain knowledge, and in this way, it supports moral freedom. But student debt also comes at a real cost, in many cases, to moral freedom (Padgett Walsh & Lewiston 2020). Highly indebted students are pressed to maximize returns on what they increasingly regard just as a monetary investment, at the cost of ignoring opportunities that do not directly lead to career outcomes (Martin 2017). The burdens of debt are thus borne by student borrowers and their families who are driven by debt to emphasize economic considerations at the expense of other important values (Frotman 2018).

Although debt can support moral freedom by creating opportunities, it can also thus diminish freedom by constraining and deforming values. However, to fully understand the impacts of debt upon freedom, we must also look beyond questions of the moral principles and personal choices of individuals. This is because, Hegel contends, the notion of moral freedom alone is, like that of personal choice, ultimately highly abstracted from the real social world in which we are embedded (LPR 68–9). Consider, for instance, that the negative impacts of student debt include not just pressures upon individual students and parents, but also growing pressures upon colleges to treat students as customers, as well as society’s weakening support for higher education, which is increasingly regarded as a merely private good (Goodnight & Green 2015; Williams 2014). Student debt thus impacts not only individual values and choices but also the broader practices and institutions in which individuals are embedded. And this, on the Hegelian view, points to a significant limitation of focusing just on moral freedom as such. Like personal choice, moral freedom is conceptualized at the level of individuals making their own choices and reflecting on their own principles. In this way, both conceptions of freedom are abstracted away from the rich social context of the actual practices, relationships, and institutions in which we are enmeshed, and which frames individual choices and principles. We must thus attend to the actual social world that individuals inhabit to assess how well freedom is truly realized through debts today.

11.4 The Limits of Social Freedom

In order for human freedom to be fully realized, Hegel contends, personal and moral freedom must be complemented and framed by a third kind of freedom. Social freedom is achieved when we, together, order our relationships, social practices, and institutions so that we identify with and endorse them. This last kind of freedom is often overlooked but necessary for both personal and moral freedom, Hegel argues. Human beings are deeply social beings, so much so that human freedom cannot be conceptualized just at the individual level. Rather, the nature and quality of the social interactions available to us are essential to being free. We become able to act on self-determined principles of morality and fully exercise personal choice through our participation in social practices, relationships, and institutions that we can identify with and endorse as mutually self-determined. Social freedom, Hegel contends, is thus both itself a kind of freedom and also a precondition of other freedoms. He describes it as freedom realized in “the existing world,” i.e. embodied in how people live their lives (PR §142). In contrast to personal and moral freedom, which are conceptualized at the level of individuals and are thus abstracted away from the actual social world that individuals inhabit, social freedom is concrete. It is realized in the actual practices, relationships, and institutions in which we are embedded.

Hegel is optimistic that the modern world offers social roles that we can truly identify with and endorse, ones that, though not perfect, frame our intentions and provide choices in ways that realize freedom. He identifies what he takes to be three major sites of social freedom in modern life: family, civil society, and the state. Families, he contends, provide closeness and belonging, enabling personal and moral freedom by providing support and care at the individual level. Civil society is the sphere of free economic activity, in which we adopt professional identities and build commercial relationships with one another, according to our interests and principles. And modern states provide not just governance and legal protections, but also a common sense of identity and purpose that frames our principles and choices. What is crucial is that each of these sites of social freedom is deeply interpersonal. We are more than simply individuals who make choices and act on principles; we also identify with our families, our work, and our fellow citizens, and we thus understand ourselves through affiliation with others. These interpersonal identities in turn frame and guide our actions; so much so, Hegel claims, that our social roles often make it easy to decide what to do (PR §150). Freedom is realized when we adhere to social roles that we identify with and regard as part of our “own essence” (PR §147). To put the point another way, we act freely by living up to the social affiliations in which we freely participate.

It is noteworthy that debts run through all three of the major sites of social freedom that Hegel identified: family, market economy, and state. Family is a perpetual locus of debt, between parents and children, between partners, siblings, in-laws, and others. And citizens of states owe financial as well as non-financial debts to one another as such, as the retributive notion that breaking the law creates a debt to society makes clear (Harris 2016; Joseph 2014). However, my focus here is on household financial debts in advanced market economies, in part because so many debts today, even those that originate in families or the state, also participate in markets in various ways. Mortgages, federal student loans, traffic tickets, and even many personal loans all combine elements of family or government debt with market-based contractual obligations.

Do financial debts today reflect and contribute to social freedom, or do they instead undermine social freedom? To answer this question, we must determine how well people can rationally identify with and endorse the practices, relationships, and institutions of debt in which they participate. Social freedom must, in Hegel’s terms, be assessed both subjectively and objectively (Neuhouser 2009). The subjective realization of freedom is that of our identifying with or trusting the social roles we inhabit. The objective realization of freedom, in contrast, is that of their being actually worthy of identification and trust, i.e. of our being able to rationally endorse our social roles. To assess social freedom, then, we must consider both how well we identify with the practices, relationships, and institutions of our social world, but also how well freedom is objectively realized within them.

Consider first the question of whether we can identify with or trust the relationships, practices, and institutions of financial debt in which we are enmeshed. In contrast to today, lending in Hegel's day was remarkably disorganized and variable. Extant records from German bankruptcy proceedings reveal the localized and patchwork nature of most borrowing and lending (Kunstreich 2017; Tilly 1989). The banking system was nascent at the time and primarily focused on lending to manufacturing interests. Personal loans, as well as business loans to tradespeople and merchants, were provided primarily by local merchants or family and friends, rather than organized banks. The relatively local and personalized nature of such debt stands in contrast to the large and organized financial industry that originates, administers, purchases, securitizes, sells shares in, insures, and collects upon much debt today. Does this transformation leave us more or less free with respect to debt? On the one hand, debt has become relatively depersonalized and thus potentially less liable to trust and identification. A community-based lender typically has reason to be committed to lending responsibly to members of its community. Not only, then, would debtors in Hegel's day have been more likely to personally know their creditors, many would have had reason to trust them. However, debtors can also be subject to uneven treatment when their debt is held by small and local lenders, especially in the absence of adequate regulation. While credit unions might tend to lend responsibly, local loan sharks profit by entrapping those who need credit and using coercion to force payment. An organized and regulated banking industry, in contrast, can offer standardization and predictability to debtors, reducing arbitrary and predatory lending and collections.

An analogy with paying taxes, itself a form of debt paid for governance, is instructive. Being required to pay taxes can infringe upon personal and moral freedom, yet paying taxes also provides for our mutual well-being and freedom. Each of us, Hegel thus notes, depends on a system of taxation in order to be able to make choices and act according to our moral principles (PR §§184A, 187). We are, moreover, better able to trust a well-organized and well-regulated system of taxation than one that is unevenly implemented and enforced, unfairly benefitting some while disadvantaging others. Even if nobody enjoys paying taxes, we can perhaps thus identify with a system of taxation that we regard as standardized and just.³ Similarly, while there is still little joy to be found in paying debts, standardization and regulation of lending and collection has created at least the potential for trusting financial institutions and identifying with debts today.

Yet, freedom requires more than just identifying with or trusting the practices, relationships, and institutions in which we are enmeshed; these elements of social life must also in fact be worthy of identification and trust. Political leaders might, for instance, manipulate a population into identifying with institutions that in fact reduce freedom. Similarly, those who struggle with debts can be made to feel that they have only themselves to blame despite being victims of exploitation. Social freedom, Hegel argues, is only objectively

realized when we achieve, together, a mutual regard for one another as free beings. This regard consists of recognizing one another as moral subjects and bearers of personal rights, but also as joint participants in a social world that we can mutually justify to one another. As the intensely social beings that we are, we depend on one another for the realization of our interests and values (PR §229). And we are fully free when we, together, concretely recognize this mutual dependency through our participation in relationships, practices, and institutions in which we achieve freedom together. Market economies realize social freedom in so far as each person's pursuit of their own ends contributes to the satisfaction of all others, in which all are reciprocally dependent on one another (PR §§198–9). Individuals, driven by their particular interests, work and transact for the purpose of fulfilling their desires and goals (PR §§183–7). But in doing so, they also form a system of interdependence where each individual's welfare is joined with the welfare of all. In the “dependence and reciprocity of work and the satisfaction of needs, subjective selfishness turns into a contribution towards the satisfaction of the needs of everyone else” (PR §199). We each thus value our economic activity because it contributes to satisfying our own interests and goals, but also because it ultimately contributes to the well-being of all.

Is paying one's debts, then, not only self-interestedly rational but also rational in the sense of participating in a mutually beneficial arrangement? We are, after all, financially interconnected today, and the behavior of each lender and debtor has repercussions for all. The mere fact of this interconnectedness, however, is not enough to establish that debtors and creditors are truly engaged in mutually beneficial transactions. Indeed, Nietzsche argues, it is only because of a flawed value system that debtors have come to regard debts as mutually beneficial, to trust their creditors, and identify with their debts. Rather than offering freedom, debt instead deforms values and commits us to social roles that we should reject (Nietzsche 1989). He begins by observing that a feeling (*Schuldgefühl*) or sense (*Schuldbewusstseins*) of indebtedness has become pervasive. “Bad conscience” is a persistent feeling of guilt that we carry around with us, an internalized criticism of our own moral character and actions. And it arises, Nietzsche contends, because we have allowed a moral and religious worldview that emphasizes guilt to pervert our lives together.

Debtor–creditor relationships existed in the earliest human societies, long before money existed. We owe many debts, after all, that are not essentially monetary, to friends, family, and strangers alike. Early societies, Nietzsche speculates, not only contained such forms of debt but also came to develop a shared sense of indebtedness to the community for the support and provision it provides. However, these early forms of debt did not inspire the guilt and shame associated with the morality of debt today. These feelings first arose, he speculates, when the sense of indebtedness to community developed into a sense of indebtedness to ancestors, who eventually came to be revered as gods. To “pay” these debts to ancestors/gods, communities would observe

rights, offer sacrifices, and obey customs. But because it is impossible to really know what suffices as adequate payment to divine beings, an anxious feeling of indebtedness grew (Morrisson 2018) and an imperative of repayment arose that allowed for few, if any, exceptions. This general sense of indebtedness, with its imperative of repayment, became fused with power structures when early communities were subsequently subsumed within larger societies and states. Enforcing the commands of those in power required that the instincts and desires of the powerless be suppressed, and that their motivations and intentions be carefully monitored. This development, in Nietzsche's view, transformed the earlier sense of indebtedness to gods and ancestors into a sense of guilt for inevitable failures to uphold, in thought and desire as well as action, the expectations associated with one's station in society. It is a sense of guilt, Nietzsche contends, that lies at the heart of European culture and morality, (mis)shaping self-understandings, relationships, practices, and institutions.

This account raises many questions, but the key takeaway here is that mass indebtedness and the imperative of repayment have transformed how we understand and relate to ourselves and others. What is crucial, for Hegelian thought, is Nietzsche's insight that indebtedness is itself a kind of recognition, a way of knowing oneself and others through the debt relation. Nietzsche's objection, when put in Hegel's terms, is that mass indebtedness and the imperative of repayment disrupt the possibility of mutually recognizing one another as free and equal agents. In its place, mass indebtedness creates a kind of misrecognition, one that perpetuates the failures of recognition that Hegel identifies in his discussion of mastery and servitude in the *Phenomenology*.

Consider that most Americans are highly indebted, financially, to a relatively small number of interests (Dwyer 2018; Li & Goodman 2015). This asymmetry of debtor–creditor relationships is intertwined with two related problems that have recently received attention from scholars of Hegel, namely inequality and poverty. First, the rise of immense inequality in advanced market societies is driven and exacerbated by rising household debt (Dwyer 2018; Wood 2020). Data shows a widening gulf between those at the top, both in terms of income and wealth, and those in the middle and bottom tiers (Pew Research 2020). The trends are most stark in the U.S., but inequality is increasing in most countries with advanced market economies (United Nations 2020). This inequality, driven in part by debt, is generating a growing divergence in well-being between those at the top and everyone else, especially those of modest means, so much so that life expectancies in the U.S. are now falling for the first time in over 100 years (Case and Deaton 2020). And it is undermining liberal democracy, scholars have argued, creating a divided society dominated by corporate empires and dynastic elites (Lazzarato 2015; Savage 2021).

This extreme inequality is problematic in a number of ways, but a Hegelian analysis, as Terry Pinkard has recently shown, can help us to better understand how rising inequality diminishes freedom (Pinkard 2017b; Pinkard 2018). Extreme inequality, he argues, belies the promise of freedom that is

central to modern thought. It is a promise that all persons, rather than just a few elites, can be recognized as free and self-determined. The extreme inequality of today, in so far as it instead increases domination and control by a few, not only reflects but also contributes to our failure to realize this promise. Moreover, Pinkard argues, this tension between freedom and inequality is not merely incidental. Instead, it is precisely in the name of personal freedom that inequality is growing in advanced market societies today.

A second contemporary problem addressed by scholars of Hegel, and one that is exacerbated by mass indebtedness, is the growth of what Hegel labels the *Pöbel*, often translated as the rabble. As finance increasingly concentrates wealth in the hands of a few (Philippon 2015), mass indebtedness drives others into the financial distress associated with poverty (Ware 2015; Dienst 2017). More and more participants in the economy thereby lose the ability to see themselves as mutually depending on and benefiting from one another (Mowad 2015). This results in a sense of meaninglessness, a breakdown of the mutual regard and sense of identity that Hegel hoped market economies could provide. It is not mere inequality that drives this change, but rather an inequality that reduces all values to that of monetary measurement. Those of modest means are not only indebted and unable to provide for themselves; they also live in a society in which all value is increasingly reduced to the very thing that many debtors have less than nothing (i.e. a negative quantity) of, namely money. And while those who are impoverished are unable to contribute meaningfully and see no way of getting out of debt, those who are extremely wealthy no longer see reason to contribute to the well-being of others and regard debt just as an investment strategy. Frank Ruda (Ruda 2011) thus emphasizes the figure of the gambler as emblematic of extreme wealth in his discussion of this problem. But in a society where precarity and debt are increasingly inescapable for those of modest means, the risks of borrowing cease to be the choice of a few and become compulsory for most (Ferretti 2016).

Fed by mass indebtedness, inequality, and poverty today thus challenge Hegel's optimism about the prospects for freedom within modern market societies. Are these challenges surmountable, i.e. can they be overcome by market societies? Pinkard is pessimistic (Pinkard 2017b). The only solution to the problem of inequality, for instance, would be for market economies to make freedom and equality basic to themselves, by instituting them at the level of the state. But how can that occur when market economies are themselves dominated by only the thinnest conception of freedom, according to which each person is just a choosing individual? Market economies are, on the Hegelian view, justified in adopting this thin conception of freedom only by contributing to the thicker totality of freedom, i.e. by playing a role in establishing and protecting moral and social freedom. Yet, as Pinkard points out, market logic and its thin conception of personal freedom have now come to frame even our understanding of the state. It has become, in our minds, just an "accidental 'we,' a body set up out of a need to adjudicate justice and serve

as a regulatory body” rather than a body that can institutionalize principles of freedom and equality within civil society (Pinkard 2017b: 326–7). And thus the Hegelian conclusion is ultimate that contemporary market economies cannot be justified because they do not enhance freedom and equality (Pinkard 2018).

11.5 Conclusion

Debts today simultaneously reflect and undermine freedom. In order to adequately conceptualize this complex interplay, we must look beyond simplistic definitions of freedom and adopt a richer and more nuanced understanding, such as the one proposed by Hegel. His tripartite account explains how debts can reflect exercises of personal choice and yet simultaneously reduce freedom by deforming values and distorting shared practices, relationships, and institutions by, for instance, driving poverty and inequality. Such challenges to freedom only come into view once we look beyond the thin notion of freedom as a personal choice that predominates today. As in Hegel’s own day, we still aspire to freedom. The question, then, is whether the practices, relationships, and institutions of debt in which we are enmeshed can be remade to better realize freedom. This question certainly exceeds Hegel’s own aspirations in the *Philosophy of Right*, yet it is one which Hegelian thought can nonetheless help to illuminate.

Notes

- 1 See Buck-Morss (2009) for an excellent discussion of these issues. Hegel’s view is clearly racist. He insists that slaves bear some responsibility for their own enslavement (PR §57) since, whereas (European) serfs alienated only a portion of their time and skills, (African) slaves “allowed themselves” to be utterly alienated from their rights (PR §67). Such “self-imposed” alienation can thus only terminate, he conveniently laments, when enslaved people take back for themselves their rights (PR §66).
- 2 A related impact of the emphasis on moral freedom has been the rise of bankruptcy protections for debtors. As Hegel notes, moral thought grounds a long-standing principle of debt relief, the benefit of competence (PR §127).
- 3 Hegel makes a similar argument regarding the validity, for those who commit crimes, of their own punishments, which is often conceptualized as a form of paying a debt to society (PR §200).

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12 Hegel, Allegiance, and the Problem of Ethical Standing

Robert Pippin

Hegel's conception of true subjectivity rests on his conception of how subjectivity is established in his *Logic* as consisting of an individual substance occupying a principled space of reasons and exercising its powers within it. As this is fleshed out—as it is made more concrete, as Hegel would prefer to put it—it becomes the conception of a historically bound subject who, moving within a determinate social space, is constrained by her past, absorbed in her present web of commitments, and oriented to her future. The “Idea” of subjectivity is thus the concept of what would be the true realization of such a concept of subjectivity, that is, what would be the best actualization of such a concept in certain determinate historical conditions.

12.1 Preliminaries

A good deal of what I want to say in the following can be seen as a commentary on this passage by Terry. The question I want to raise about Hegel's theory of objective spirit will require a brief summary of the distinctive claims of his *Elements of the Philosophy of Right* (PR), how it differs from canonical positions in ancient and modern political thought. What I want to claim is that it is precisely the innovative and what I believe to be the attractive alternative he presents that will unfortunately also create a difficulty that casts serious doubt on the potential relevance of his account for modern political life. These distinctive features are all densely interrelated and well-known, although not perhaps in the terms expressed here. They include (1) Hegel's whole approach to a theory of justice or right; (2) Hegel's conception of practical rationality; (3) his ontological and constitutive understanding of human social dependence; (4) his understanding of the crucial role played in a just social and political order by what I will call the realization of a form of legal and social standing; and (5) Hegel's realism, most famously captured by his claim that “philosophy is its own time comprehended in thought.”

- 1 The central question of political philosophy is the question of justice. The core of most modern approaches to the question concerns legitimacy. Weber's question is paramount: what distinguishes the organized

use of force by one group of people against another group, from the legitimate exercise of state power over its citizens? The answer is assumed to be that the latter is rational, and this is because it rests on reasons that any rational being must accept, and this usually involves some claim about the “rationally re-constructed consent of the governed,” determined sometimes in somewhat fanciful counterfactual ways. With respect to social justice, the question concerns the rational distribution of the resources and benefits available in an historical period, particularly the division and organization of labor. Arguments about this range from answers based on the equal moral standing of any individual (and so a claim to equal opportunity) to approaches that give priority to some notion of just deserts. So the simple idea is that in obeying the law or accepting and participating in social institutions, you are really only “obeying yourself.”

Hegel’s objections are well-known. First, legitimacy as so understood is not at the center of his concerns. Contractualism suggests that political order derives from acts of will and commitment that can either be made or not made, or even withdrawn, and Hegel regards political life as necessary and grounded in the nature of *Geist* as such. The conception of ex ante individuals relying on reason alone as the ground of authority is an argumentative artifice that has nothing to do with “actual” human beings and especially plays no role in the creation and sustaining of allegiance and commitment to a regime. No one pays their taxes or votes or shows up when drafted because of any original position argument or some mediated representation of it. This is not to deny that subjects have the concepts or right, obligation, value, or that they do not understand them. But they do not have them or understand them as the result of philosophical ratiocination. Hegel even denies that any determinate obligation can be derived from the idealized consent of putatively “stateless,” atomistically conceived individuals. There are no such individuals, and this idealization ignores the essential features of a human being necessary for any reflection on these questions. As he famously notes in the Preface, there is simply no role for any philosophical (or “scientific”) reflection on right to play either in the subjective nor the objective dimensions of political and social life. This is not to say that the *Philosophy of Right* is superfluous or unimportant; just that it is for philosophers, not for citizens. Moreover, the conception of a contractual self-limitation of freedom on the part of such isolated individuals inevitably conceives of the political order as a means to the satisfaction either of interests or a range of free activity devoted to self-interest. This would represent what is for him one of the greatest dangers in the emerging modern state, the collapse of the distinction between civil society and the state, of the distinction between *bourgeois* and *citoyen* (PR §258Z).¹ In a general sense that begins to raise the problem I want to discuss, Hegel does not separate the issue of political authority from several others about the worthiness or value of institutions, which is roughly where

he locates the possibly inspiring source of allegiance. Finally, he agrees that the mark of a free being is rationality, but he denies that some exceptionless nomological principle, supposedly agreed to in idealized conditions, or some ideally negotiated compromise, is the mark of such rationality.

- 2 He has instead a substantive and not a formal theory of rationality. Human beings are essentially rationally reflective, socially dependent, *historically self-transformative* embodied free beings. If he is right about this, then every aspect of our reflection on just political and social institutions must take account of it, and our understanding of what it is to be such a being must be historically diagnostic, not “ideal.” This is sometimes also called a “naturalism,” and while that can be misleading in the Hegelian context, it is not wrong (Wood 1990). We must try to understand what a historical life at a time is like, does to, inspires in, the persons who find themselves subject to it. If they come to live in a way that, as he would put it, does not agree with the right concept of *Geist*, then that way is irrational and unjust (PR §145). There should not be elephants in circuses or whales in tiny tanks at Sea World, or a form of human life that empowers an elite based on supposedly inherited bloodlines. This conception of *Geist* is not an “ideal standard” for its differentiated expression in the various institutional domains of the *PR* because these capacities and potential collective self-understandings have various putative actualizations that cannot be straightforwardly derived from the nature of the capacities themselves. This claim of actualization has a dual meaning. It refers both to concrete historical communities and also to their actuality, not to a collection of empirical historical details.

That is, *Wirklichkeit*, is not what Hegel means by *Realität*, reality. The latter would refer to modern life in Prussia or England or France in 1821 and would consist of empirical details about what is going on now. So while it is true that Hegel borrows some details from contemporary Prussia, and often refers to contemporary matters in the remarks delivered in the lectures, he also adds several elements that have no empirical reality (yet) but are what he still considers “actual.” The idea would be that the empirical details are not of themselves doing any philosophical work. They have to be “redeemed” by what does all the work in the book, both the diagnostic and the conceptual-developmental claim, directed at what currently available institutional arrangements (even if only *in potentia*) can be argued to actualize the philosophical claims about the nature of freedom, of agency, the relation between subjective and objective and so forth developed largely in the work’s Introduction. But the objective side of this still indicates that Right is not a pure philosophical concept, like finitude, limit, essence, appearance, cause, and teleology, Concept or what Hegel calls the thought-determinations of the *Science of Logic* (SL). Its content captures the historical actuality of a time, something like its rational core or essence or even “real possibility,” to invoke

the Kantian modality; its *Wirklichkeit* in that sense. That his philosophic assessment has this sort of historical focus is clear from the beginning of his analysis of civil society: “The creation [*Schöpfung*] of civil society belongs to the modern world, which for the first time allows all determinations of the Idea to attain their rights [*ihr Recht widerfahren läßt*]” (PR §182A).²

- 3 This claim about social dependence is ontological, not empirical, and concerns what it is to be a person at all. As all of you here know, this is perhaps the major theme in Terry’s work on Hegel, and I think he has expressed the position better than anyone. A human being can only be what it is, a free being, in participating with others in institutions like the family, civil society, and the state. That certain modern institutions (or their late modern successors) can be shown to be necessary to realize that conception of human being (as it has “actually” come to be) is the core of his case. His full claim about social dependence is that the realization of freedom for such a being consists in: “being with oneself in an other,” often otherwise expressed in the PR as a unity of subjective and objective freedom. Remarkably, and in a way that is not as prominent in discussions of the fundamental issues in Hegel’s social ontology as one would expect (given their oddness), Hegel’s prized examples of actualized freedom are love and friendship.³ Under liberal presuppositions, we would normally think that in order for all and each to be free, a particular subject must sacrifice a full realization of freedom in pragmatic or moral consideration of the other’s freedom. As noted above, that is what Hegel wants to avoid, seeing an other who is unavoidably impacted by what one does as a hindrance to what would have been full freedom, so that we must accept that we can’t be fully free. He thinks the right sort of institutions will make it possible to experience others and objective institutions *as* the full realization of freedom rather than its sacrifice. So, I don’t compromise my freedom in a sacrifice for the sake of a friend or my child; I see their good as my own as well as theirs. Just institutions can be shown to conform to that requirement.⁴

- 4 Our socially dependent and historically self-transformative nature also means that our experience of this mutuality cannot be merely formal or legal. This is the basis of his insistence that modern institutions must embody the *experience* of equal standing and respect among participants for it is only out of such an experience that allegiance is possible.⁵ That is, it does not satisfy the requirements of right or justice if it can be shown that institutions only formally or legally protect this notion of equality as mutual respect, or equal standing. We must be able to show that a commitment to such standing and what it requires (including the modern state) arises as a lived aspect of the quotidian participation in these institutions. Just consider the subjective moment of ethical life as described by Hegel, a state of non-alienation where the subject “bears

spiritual witness to them [institutions and laws] as to its own essence in which it has its self-feeling [*Selbstgefühl*]" (PR §147). Just as it is one thing to believe in the pagan religion and another to be a pagan (PR §147R), there is a difference between coming to be persuaded by a belief about liberal democracy and coming to *be* a liberal democrat. Controversially, he does not think this requires full material equality (although it is inconsistent with extreme inequalities in material well-being; therein opening a sliding scale issue), but the experience of recognitive respect. Now the social institutions, like Corporations and the Estates, that he thought could help accomplish this are, at least as far as I can see, no longer relevant today (admittedly, hardly an uncontroversial claim; the ineliminable role of the corporation and their inability to do what Hegel needs them to do is just the problem I want to raise),⁶ but a Hegelian approach would involve the search for the possibility of such mediating institutions, in which such standing is real, lived out. This all means that it is quite possible that the character of neo-liberal, globalized finance capitalism makes such a search futile, and would count "for a Hegelian" as profound injustice, not a marginal psychological worry about "how people feel about themselves."

This particularly concerns the world of work, something we need to discuss further in the next section. Especially in his lectures, like those now translated as *Lectures on Natural Right and Political Science* (LNR) Hegel's concerns about the organization of labor in early capitalism already reflect a remarkable pessimism that a reformist approach to such practices would be possible. "A factory presents a sad picture of the deadening (*Abstumpfung*) of human beings, which is also why on Sundays factory workers lose no time in spending and squandering their entire weekly wages" (LNR §101). He appears to mean a factory as such, and this is an aspect of Hegel's position that is relatively unexplored. And it is not a point that is restricted to industrial factories, as any good account of the daily grind of Amazon or Walmart workers or nursing home attendants or telemarketers or clerical workers will make clear. Anderson puts it very well:

Consider some facts about how employers today control their workers. Walmart prohibits employees from exchanging casual remarks while on duty, calling this "time theft." Apple inspects the personal belongings of their retail workers, who lose up to a half hour of unpaid time every day as they wait in line to be searched. Tyson prevents its poultry workers from using the bathroom. Some have been forced to urinate on themselves, while their supervisors mock them. About half of U.S. employees have been subject to suspicionless drug screening by their employers. Millions are pressured by their employers to support particular political causes or candidates.

(Anderson 2017: xix)⁷

Finally (5), I understand Hegel's social and political thought to be a realism, as that term is understood today. This means that reflection on political and social order must begin with human beings "as they are," and in Hegel, that means, "as they have come to be." But access to such a beginning orientation is not straightforwardly empirical. It is interpretive (including interpretations of its "actualization of right" potential), and also requires some account of why they are as we might claim they have come to be. To many, this seems impossibly ambitious, that the late modern world, even in the restricted domain of Western European and North American societies, is too fragmented, religiously and culturally diverse for any such an attempt to succeed. But from a "Hegelian" point of view (not the historical Hegel's) there are sufficiently widespread features of the organization of power in modern societies to make such an interpretive-diagnostic task generally feasible. With some variations, the organization of labor under global capitalism, and its material inequalities and humiliating working conditions, a consumerist culture, the extreme concentration of wealth in ever fewer hands, the decreasing power of states in the face of finance capitalism, the phenomenon of mass migrations and the apparent inability of advanced societies to control the racism that increases with the disappearance of the nation-state (and the subsequent compensatory rise of nationalism), and the rise of reactionary religious movements are substantial enough to count as a coherent object of critique. Any assessment of whether such a late modern form of life allows human beings to live in a way that makes possible for the realization of the rationally reflective, self-determining, socially dependent beings that they are, requires that we have some comprehensive understanding of real life under such conditions, and this seems to me far more challenging than has been acknowledged. In this regard, I think we come to be much better informed about such an issue by, say, the films of the Dardenne brothers or the novels of John Coetzee than from the social sciences as they are currently practiced. In addition, to return to and to emphasize again a point made before, one of the virtues of Hegel's realism is that he does not treat the question of our allegiance to, investment in, willingness to work for and sacrifice for what such a form of life requires as a matter of the superiority of a discursive argument that we should. It must be understood as a natural expression of the kinds of desires, concerns, self-understanding and especially the formative effects of a kind of social order that a society produces in its citizens, including an experience of the frustration of these capacities. Parts of his early *Phenomenology of Spirit* are more helpful here than *The Philosophy of Right*, but properly interpreted, his account of *Sittlichkeit*, dated as it is, can help us how to understand how to begin to do this. Finally, if rational self-interest and a calculation of material advantages cannot be the basis of such allegiance to public social and political order, Hegel owes us an account of what the "belonging" required for the social solidarity he sees as so valuable consists in. Hegel was not a proponent of the nation-state as that came to be understood after Herder, but his accounts of the institutions and practices that comprise the "Bildung" of burghers in

a *Rechtsstaat* do not appear to be adequate for a mass, culturally diverse societies, and anyone interested in Hegel has the task of explaining what could contribute to this desideratum in modern societies.

12.2 Historical Actuality

I have already said I believe that Hegel has a substantive rather than formal conception of rationality (like Aristotle's but different in that he treats Geist as historically self-transformative and, creating the problem we will confront, he has a robust sense of what he calls the "right of subjectivity" in our allegiance to any regime) and treats such human beings as fundamentally, or ontologically, socially dependent beings, and that the realization of freedom requires not merely the absence of arbitrarily external constraint, but the achievement of a kind of social solidarity he calls being-with-self-in-other. Being free is being free to live as one is, as such a socially dependent being, or to live "in the truth." This is of course the source of a great deal of panic about the supposedly conservative or even totalitarian implications of "positive freedom." This is too controversial to try to defend here, but I believe it entails that for him practical rationality in this context at least is best understood as a social practice, the mutual offering of considerations that persons offer others when what they do conflicts with what others would otherwise be able to do. But such an exchange of considerations need not be argumentative reasons, but considerations tied to various possible modes of reconciliation with others (like "because we are colleagues," or "because this is what a good worker or a good father should do"). Now of course, various non-distinctive things Hegel defends can and still ought to be defended today: basic rights protection in a rule of law, individual moral responsibility (for what was intentionally done, not what happens because of what I do), the free choice of an occupation and marriage partners, autonomy and independence as the goal of familial education, some means for the concrete and recognized expression of one's distinctive personhood, including private property, social solidarity as a common good, a representative state. And there are many aspects of his position that cannot be defended, or so I would argue, including the patriarchal family and a non-deliberative legislature, just as there are many aspects of his accounts of art, religion and history that cannot be defended.

The problem is how the most important desideratum of his social and political philosophy, the concrete actualization and lived out recognition of social solidarity as a matter of equal standing within the whole, is to be understood since it is not something that can be the object of legislative will. Legal remedies are inherently coercive and coerced recognition or solidarity is not recognition or solidarity. The solution is supposed to be the ways in which civil society educates, forms, as in *Bildung*, the workers and *Burghers* about their stake in each other, their mutual dependencies and the importance of an acknowledged standing among others. This education is what

creates the “second nature” that makes the relation between any subject and ethical substance a matter of “self-feeling,” a mediated identity. At the end of the discussion of civil society:

In the development of civil society, the ethical substance takes on its infinite form, which contains within itself the following two moments: (1) infinite differentiation to the point at which the inward being [*In-sichsein*] of self-consciousness attains being-for-itself and (2) the form of universality which is present in education, the form of thought whereby the spirit is objective and actual to itself as an organic totality in laws and institutions, i.e. in its own will as thought.

(PR §256A)

What could (2) and “actual to itself as an organic totality” amount to?

A very difficult question. It involves what has already been discussed here as Hegel’s historical realism, and aspects of historical development that he does not think can disappear without ethical harm, like the distinction between civil society and the state. What he did not appreciate was how badly modern capitalism would require massive state intervention, and how such a situation after World War One would invite the major stakeholders in civil society to work to obliterate this distinction between the regulatory and the political state or that they would succeed so decisively after the rise of neoliberalism.

This does not mean resignation to a historical fatalism. The dissolution of this distinction also means the absence of allegiance to a common good, or any strategy of *Bildung* that could restore it. This is something that threatens everything from tax-based financing of public education to all forms of social insurance to the merely theatrical character of modern elections to “the security of a safe street in a state.” If Hegel is even minimally right about historical change, this situation ought to prove (eventually) unbearable. There are indications today that it is.

12.3 The Problem of Ethical Standing

Now the case for the rationality of this novel dimension of modern society – essentially a capitalist or profit-driven, money economy, and its regulation – depends on a complex a priori account of the logical relation between particularity, universality, and what Hegel will call individuality, as the mediation of universal and particular, something itself supposedly not properly understood until Hegel’s speculative metaphysics.⁸ The one principal of civil society is the “concrete” person, *das Besondere*, someone who has her own particular ends, unique to her, and who is

in relation to other similar particulars [*Besonderheit*], and their relation is such that each asserts itself and gains satisfaction through the others, and

thus at the same time through the exclusive mediation of the form of universality [*Allgemeinheit*], which is the second principle.

(PR §182A)⁹

If considered on its own and in isolation, this realm of agents pursuing those unique ends is “Boundless, extravagant, and the forms of this extravagance are themselves boundless” (PR §184A). The realm of civil society consists of social interactions grounded in the contingent particular needs of distinct individuals. Merely strategic reasoning, taking others into unavoidable account to achieve one’s own unique ends, would not rise to any level of ethical significance, and would not qualify as an exemplification of the true universality of the demands of freedom, being with self in an other. It would be wholly transactional, and the self-understanding of the participants would remain atomic and particularist. But as we have noted, civil society is also supposed to be *bildende*, educative. Here, of course, we see the great influence early in the century of his reading the Scottish economists, Smith, Ferguson, and Steuart, something that convinced him that modern economic life was not necessarily deracinating, alienating and merely contractual.¹⁰ In the attempt by particular subjects to realize their distinctive ends they experience a mutual dependence on others which they come to understand not as limiting but as self-realizing for each, an ethical bond in service of a genuine common good, the realization of an aspect of freedom as a good. And this is just one of the reasons why the labor situation is so important to Hegel, an evaluation that stretches back to the discussion of the *Knecht* in the *Phenomenology* and beyond. It is a vehicle of self-actualization, the confirmation of one’s distinctive talents and individuality. Workers come to understand a substantive and universal norm that all amounts to Hegel’s case for the partial and circumscribed rationality of civil society and so the ethical significance of the modern economy. As he puts it, “the principle of particularity passes over into universality, and only in the latter does it have its truth and its right to positive actuality” (PR §186), and the education it effects “is therefore liberation and work towards a higher liberation” (PR §187R). He means that the way I direct and limit my pursuits is not determined solely by my individual self-interest, but comes to be, the way he always puts it, “mediated,” also suffused by a consciousness of a universal principle that binds all rational beings. This universality is not yet adequate, is still a version of a common interest, not full ethical universality, but it is “conciliatory” (*versöhnende*), he came to believe, in a significant way.

As noted, this is not what Hegel would call an “immediate” identification with such a universal norm, but is “mediated” by the various ways in which one comes to have standing in the eyes of others, not just as another self-serving bargainer, but as a member first of *Stände* or classes (a mediated universal in his terms), acknowledged as necessary for the well-being and self-respect of all; the agricultural, the manufacturing and what he calls the “universal” class, most prominent in the civil servants who rise to such

significance in Hegel's account, and as members of the various Corporations, associations defined by work roles, within which one also has standing as, say a carpenter, or cooper, or teacher or skilled laborer or administrator of any kind. As Hegel puts it, the universality at issue "is the quality of being recognized, is the moment which makes isolated and abstract needs, means, and modes of satisfaction into concrete, i.e. social ones" (PR §192) and this recognition "involves the requirement of equality" (PR §193). As he summarizes:

The ethical disposition within this system is therefore that of rectitude and the honor of one's estate, so that each individual, by a process of self-determination, makes himself a member of one of the moments of civil society through his activity, diligence, and skill, and supports himself in this capacity; and only through this mediation with the universal does he simultaneously provide for himself and gain recognition in his own eyes and in the eyes of others.

(PR §207)

Again, Hegel points out that this is still a limited conception in the stake we have in each other, and so still more of a "commonality" of interests as a limited universal. And he certainly defends some regulatory connection (by the *Polizei*; see PR §233) between entitlement rights and welfare, including the right to work (PR §230). However, very little of his notion of ethical standing or genuine recognition of worth is addressed by such minimal welfarism.¹¹ Moreover, he goes well beyond that in his accounts of the negative and indeed unethical aspects of life in a modern economy. Hegel had to deal with his own version of free marketers (especially those at the beginning of agribusiness, trying to buy up peasant land for very large commercial farms) and was deeply suspicious of them, insisting on the necessity of state intervention in the economy, where he again means the "state" internal to civil society, the *Rechtspflege*, not the political state. It is only at the level of a political identification, as fellow citizens, that this true universality and a finally satisfying form of recognition is possible. The strict distinction between the political state and civil society is the foundation of his whole approach. But Hegel raises a number of problems for which intervention does not seem relevant.

On the one hand, Hegel, like so many early theorists of capitalism, imagined a domain of craft and production that assumes a certain scale; self-owned small business, industrial production that makes use of the distinctive talents of workers (a craft-like model). On the other hand, he could see what was coming. He was well aware of the economic advantages for the owners of capital to simplify and mechanize labor in ways that drastically alter the pride one takes in one's standing and so one's honor; the advantages, indeed, of eliminating all dependence on worker talent, the source of their standing in a corporation.¹² One's expectations of being recognized as having worth, one's standing, is threatened by the internal dynamic necessary in capitalism,

the accumulation of surplus capital, or wealth, the engine of capitalist growth itself:

On the one hand, as the association of human beings through their needs is universalized, and with it the ways in which means of satisfying these needs are devised and made available, the accumulation of wealth increases; for the greatest profit is derived from this twofold universality. But on the other hand, the specialization [*Vereinzelung*] and limitation of particular work also increase, as do likewise the dependence and want of the class which is tied to such work; this in turn leads to an inability to feel and enjoy the wider freedoms, and particularly the spiritual advantages, of civil society.

(PR §243)

These aspects of a manufacturing economy, the deadening effects of factory routine and the increasing simplification and de-skilling of the labor process, are obviously serious problems in a systematic account so focused on the social bases of the respect or recognition that is criterial for that particular-universal relation that is supposed to count as limited but real justice of civil society. There are course thinkers then and now who believe that raising any question about the justice and fairness of a competitive economic system, especially at the macro or structural level, is inappropriate. The idea is that no one would ask whether it is right or fair that gambling or a footrace produces a few winners and many losers. Hegel is clearly not one of those, but he suggests no ways in which “intervention by the state” could ameliorate these problems since, as he realizes, these trajectories are not incidental aspects of a capitalist economy. Competitiveness makes them inevitable, and one begins to worry whether the deprivations and pathologies produced will be so severe that they make completely implausible the idea that one’s role as a citizen can re-establish that dignity and sense of worth so inevitably destroyed by these conditions.

This is most famously the case with Hegel’s account of the inevitability of poverty, but he also, again mostly in the lectures, has a number of things to say about the accumulation of great wealth within capitalism and its effect on the wealthy as well as the poor. The premise for both accounts is that labor is essential in any society of actualized freedom. This is again part of his schema, that a particular subject must work to liberate himself from natural necessity, master abstract ideas and relations, experience his subjective freedom externalized in an objective product of and so expressive of her distinctive talents and labor, and come to understand the nature of the dependence on others that the division of labor requires.¹³ This educative benefit does not happen through exchange or consumption but through work and the positive, educative experience of a vital dependence on others. The wealthy, however, or many of them, either do not work or do not need to work and so do not have the same stake in the outcome of their labor; they live off their wealth and

for Hegel are severely spiritually impoverished because of this. They become mere consumers [*blossen Konsumenten*], an activity without ethical standing, an activity that inspires no respect from others (VPR Griesheim 499). What Hegel would have thought of an entire economy fueled by consumer goods, a *Konsumgesellschaft*, is easy enough to predict. He even compares the situation of the rich with the paradoxical position of the Master in his famous Master-Slave dialectic (VPR Henrich 196). Moreover, there are social dimensions to the position of the wealthy. They will inevitably tend to “see themselves as no longer obliged to respect the rights of others” (VPR Hoppe 222) because of the obvious inequality in social standing. He goes so far as to say that, “[o]ne can also call it a depravity (*Verdorbenheit*), that the rich person thinks that everything is allowed for him” (VPR Hoppe 223). Hegel thus anticipates the paradoxical phenomenon of ludicrously wealthy and privileged burghers who feel constantly aggrieved about state “seizure” of their money in taxes, and who spend a great deal of money corrupting the political process to prevent such seizures and who often form common cause with the equally aggrieved disenfranchised poor, who can be easily manipulated by populist and nationalist sentiment. Finally, he goes so far as to claim, using the term he is famous for using about the poor, a “rabble” [*Pöbel*], describing a “rich rabble” [*reiche Pöbel*], people united in their view that they have no stake in society and its common good, either because they regard themselves as above it or excluded from it (VPR Henrich: 196–7; VPR Hoppe 222).

Since the accumulation of great wealth is inevitable in a highly competitive market economy, and since its effects on ethical life are so dangerous, these would appear to be quite serious problems. Equally serious are the famous problems associated with poverty:

When a large mass of people sinks below the level of a certain standard of living—which automatically regulates itself at the level necessary for a member of the society in question—that feeling of right, integrity [*Rechtheitlichkeit*], and honour which comes from supporting oneself by one’s own activity and work is lost. This leads to the creation of a rabble, which in turn makes it much easier for disproportionate wealth to be concentrated in a few hands.

(PR §244)

As is well known, Hegel sees very little chance that, given the basic premises of a market economy, this problem (as well as the problems caused by extreme wealth) can be fully solved.

I should note that we have to pass over here the empirical question of whether Hegel is right or not that a regulatory and interventionist attempt to create full employment would necessarily or even very likely still lead to overproduction and so since it is his view that overproduction is the greatest causal factor in poverty, a worsening of the problem.¹⁴ Hegel clearly believes it would and there is certainly evidence that recessionary cycles and

mechanization and automation create the unemployment that has the effects Hegel is worried about, whatever the cause.) He suggests, somewhat half-heartedly, that the settlement of new colonies can partly alleviate the problem, obviously not an approach that would have any takers today, and it seems offered by him as a mere vague possibility, without much detail. Moreover, Hegel does not much discuss the fact that modern commodity production would not be possible if it did not also create values distinct to a market economy, well beyond the general commitment to the value of freedom and some potential for solidarity. Capital for Hegel is just accumulated wealth; it does not become a value in itself. But it obviously does in capitalism, inverting Hegel's treatment of money as a mere means, as the ends of capitalism subordinate all human value, including the human value most important for Hegel, equality as mutuality of recognition.¹⁵ Anyone who ignores the value of maximizing profit for the sake of some such human end insures their competitive disadvantage and eventual ruin. This is the familiar capitalist ideology of necessity, Thatcher's "TINA" ideology (There Is No Alternative) and Hegel does not seem sensitive to it.

The issue all of this raises is clear and goes to the heart of what Hegel is trying to do. The question is: how are we to view what appear to be intractable and destructive ethical aspects of a market economy? Given the problems he has focused on, his claim in PR §253R that the corporation's ability to alleviate poverty also alleviates its "humiliating character" misses the point about the source of that humiliation and seems tone-deaf. We recall that social and political system are regarded as grounded in putative ahistorical ideals that actually always simply reflect the level of self-knowledge available at a historical time. In the example of Plato and his *Republic* that Hegel cites in the Preface, justice was understood as threatened by the demand for acknowledgment by the individual subject for standing and respect as such distinct individuals, not merely as fellow citizens. This tension was most obvious in the tension between eros, especially the love of one's own, and justice, dedication to a common good and to the rule of reason in politics. The assertion of the subject as having standing in itself was regarded as the assertion of mere inner caprice, whim, feeling, and so forth, and the task of education was to sublimate such eros in favor of an organic identification with the *Politeia*. But we can now see, in Hegelian hindsight, that this principle of subjective standing was a world historically significant demand, a demand of reason manifest in historical time. Its emergence as a critical problem in the ancient world was a sign that that world would soon disappear under the pressure of an evermore self-conscious realization of that world's irrationality, something made fully manifest in Christianity.

As we have seen, Hegel has interpreted a market economy, capitalism, as unavoidably producing, in the deskilling trajectory of modern labor (something he was warning about well before Fordism and Taylorism), and among the chronically unemployed and the wealthy a detachment from the only available social bases of self-respect and recognitive status; the labor process.

As he puts it, “without the mediation of work” there would be no feeling of “self-sufficiency and honor among its individual members” (PR §245). Given the constellation of Hegel’s distinctive claims about allegiance and therewith authority that we discussed at the outset, this creates a fatal problem for Hegel. We can say, following Moyer’s interpretation, that given the “actual inferential” consequences of institutional and economic life in civil society, it is hard to see how anything in those implications allows the “passing over” into new and reformative institutions and practices that Hegel relies on to advance his argument. Insuring economic security, at some minimal level, cannot possibly educate workers in modern capitalism about their stake in each other that creates anything like the solidarity Hegel’s position on the nature of allegiance requires. And here we should stress that this problem is not a minor psychological issue when, say, compared with such material well-being or security. The basic claim of Hegel’s account is that there can be a logical relation between the independence and dependence among individuals in civil society, in economic activity, productive labor, management, and exchange, that is neither disjunctive nor a mere compromise, but that the educative experience of civil society can teach its members that true independence is not qualified by but realized by a form of dependence and that being dependent in the right way in a society with a division of labor is the achievement of independence. The key to this unusual claim is the experience of one’s standing among one’s fellow burghers. True to that idea, he tries to show, or at least to assert, that one’s standing in an estate, and in a more mediated way, in corporations or work associations can preserve that recognitive status even if wealthy or unemployed. Even though, he claims, civil society teaches one that in acting for himself, he is acting for others, this “is not enough; only in the corporation does it become a knowing and thinking part of ethical life” (PR §255A). He places so much faith in the deep solidarity produced by such corporations, that he even argues that elections should be organized by corporations, that one should vote *qua* corporation member.

And finally, he thinks whatever residue of ethical damage by capitalism’s relentless need to eliminate the bases of societal respect can also be decisively mediated by the political state and one’s experience of others as fellow citizens. A typical claim about the state proper: “The end of the corporation, which is limited and finite, has its truth in the end which is universal in and for itself and in the absolute actuality of this end” (PR §256). The full statement of what he means is:

If the state is confused with civil society and its determination is equated with the security and protection of property and personal freedom, the intent of individuals as such becomes the ultimate end for which they are united . . . But the relation of the state to the individual is of quite a different kind. Since the State is objective spirit, it is only through being a member of the state that the individual himself has objectivity, truth, and ethical life. Union as such is the true content and end, and the destiny of

individuals is to live a universal life.... Considered in the abstract, rationality consists in general in the unity and interpenetration of universality and individuality.

(PR §258R)

Both of these responses to the problems Hegel points out in modern generalized commodity production are remarkably weak; remarkable given the seriousness of the problems. Corporations that are organized around the particular interests of different worker groups cannot be the basis of any true universal equal standing among all. Moreover, it is hard to see that solidarity in such a group would not be undermined by an inevitable patronizing for those who cannot find work, and Hegel leaves unexplained how merely being a member with such a reduced standing would generate that solidarity at all (as opposed to resentment of those who still, contingently, and for no good reason, still happen to have work). And it is un-Hegelian to suggest that the state functions merely as some sort of compensatory experience; it is supposed to be the realization of an emergent ethical ideal experienced in civil society: standing, or *Standesehre* (PR §253R) let us say, a contentful measure of respect and importance that can generate a real stake in the common good. And a compensatory function would leave all the problems of civil society intact, just ameliorated not “sublated.”¹⁶

So despite Hegel’s apparent reluctance to put it this way, the question is whether the diagnosed situation is like the historical situation of Plato or not. Is what Hegel has diagnosed a form of life confronted by what might seem to be problems of the sort that any finite, imperfect social and political system must confront as best it can, or is it a form threatened *in toto* by what are really indications of a far deeper irrationality, a threat to the realization of freedom that announces the necessity of a major historical transformation? The threat is not wealth or poverty in itself for Hegel, just as the mechanization and simplification of the labor process is not the problem of tedium or boredom. In Hegel’s view, market economies create massive incentives for the owners of capital to undertake measures that inevitably reduce the experienced bases of any contentful standing among one’s fellow human beings and so distorts any *Bildung* that might inspire a commitment to a common good or even participation in politics.

From everything we have seen thus far, I think it is impossible to avoid concluding that on Hegel’s own terms the situation he describes is a clear echo of the situation he claims Plato was facing. Capitalism, generalized commodity production that everywhere assumes a profit motive and the constraints of competition, is inconsistent with what I have been calling an ethical standing that counts for Hegel as the basis of mutual respect and so the experience of one’s own worth. This makes it very hard to understand how allegiance is supposed to be an “identification” with ethical substance, not mere consent to it or the strategic realization of its usefulness. The experience of civil society is supposed to create this form of allegiance but Hegel himself provides

the evidence, even at this early stage of industrial capitalism, that it cannot. Even though he doesn't put it this way, what I have been calling this problem of one's standing cannot be a regrettable but still acceptable one of a system of production that would still stand as on balance a concrete and objective actualization of freedom. This is because this question of mutuality is inseparable from Hegel's account of freedom itself and thereby of the possibility of allegiance. Hegel's account of responsible action is not a straightforward, intentional-causal account of agency. His general standard for achieving freedom is that one must be able to see oneself in one's deeds, to experience them as one's own, another dimension of that general notion of being-with-self-in-an-other. This in turn requires a version of self-knowledge that he does not treat as a result of any complete transparency of the self to itself, but which is mediated by what one experiences one's deeds have come to mean to others and how they have come to matter to others. And this requires social forms in which this would be possible.

This may not be the right explanation of freedom, and there may still be a great deal of work to be done to explain the paradoxical claim that I cannot be free unless I am recognized as free in a concrete institutional way, but it is certainly Hegel's position, given his coupling of the essentiality of labor to human worth, together with Hegel's hesitations about whether this recognition is possible in a competitive system of production. This has to mean that the situation he describes is much like the one he assigns to Plato (or to Sophocles or to feudal institutions or to French Jacobinism). In the case of Plato, the "new principle" was what he called "the right of subjectivity." In this case, the problem is the incompatibility of a productive system in which the constraints of competitiveness require the maximization of profit and the minimization of the cost of labor, with the real social bases of self-respect and the achievement of standing in the eyes of others. Given how Hegel understands the concept of freedom, there is no way to avoid the conclusion that this form of actualization of freedom "does not agree with its concept," the Hegelian mark of irrationality.

The final question this all raises is obvious and has in fact been raised frequently by the new dialectical materialist interpretation of Hegel. Is any resolution of this incompatibility consistent with any preservation of the core elements of late industrial and finance global capitalism? This would largely depend on what one regards as those core elements, or rather what they have become in the 200 years since the PR's appearance. And "what they have become" makes Hegel's picture of labor and a system of exchange hard to recognize.

Since this is a conference about Terry and his work, I should mention that this question does not I think concern what he has called the basic "building blocks" necessary for any realization of self-conscious subjectivity as an infinite end. Nothing I have said should conflict with this claim of his:

This is a freedom in which a modern form of independence has taken root within a modern web of dependencies which is the very condition

for that kind of independence and which is only real, effective—“actual,” as Hegel would say—within those webs of dependencies. In its paradigmatic modern form, such a relation to self is mediated everywhere by our relations to others and within which ultimately the reality of being one’s own person in civil, decent concert with others as mediated by the right set of institutions and practices is the object of the satisfactions of social and individual existence.

(Pinkard 2017: 168)

The question here concerns Hegel’s view of what this “paradigmatic modern form” amounts to, and the answer about the social institutions we have been looking at would appear to be no, that there is no way to reconcile those core elements with what Hegel regards as the essence of freedom (all of this, of course, despite Hegel’s own hopes for the Corporations and the political state).¹⁷ It is not easy to understand how Hegel would want to retain what he regards as the positive socializing and educative effects of a market economy if, let us say, private ownership of the means of production were ended, or whether some radically reformist measure, like worker control of the conditions of their labor, or if there were design of production technology that takes into account the need to insure the dignity and social standing of workers. But the case I have tried to make is that Hegel’s own account invites or even demands such speculation, and we should not hesitate to hope that there are such possibilities building in the political pressures caused by the dissatisfactions so obvious today and to see them as deeply consistent with Hegel’s approach to historical actuality and so can give us some hope for what Terry rightly called a “more nearly reconciled life” (Pinkard 2017: 146).

Notes

- 1 For a thorough account, conceptual as well as historical, of this distinction (including why it is often expressed in French and not in German) see Kervégan: 121–46.
- 2 Hegel’s own bewilderment that anyone could have taken the *Doppelsatz* in the Preface to mean that he thinks everything that occurs historically must be as it ought to be is expressed, with some frustration, in EL §6. There he tells us that:

But when I spoke of actuality, it should have been evident in what sense I am using this expression, since I treated actuality in my more extensive *Logic*, too. There I directly distinguished it not only from what is contingent (which, after all, exists as well), but also and more specifically and precisely from existence [*Dasein*], concrete existence [*Existenz*]’ and other determinations.

(EL 14)

For more on the notion see Pippin (2017).

- 3 See (PR §7A): “This, then, is the concrete concept of freedom, whereas the two previous moments have been found to be thoroughly abstract and one-sided. But we already possess this freedom in the form of feeling [*Empfindung*], for example in friendship and love. Here we are not one-sidedly within ourselves with reference to an other, even while knowing ourselves in this limitation as ourselves. In

this determinacy, the human being should not feel determined; on the contrary, he has his self-awareness only by regarding the other as other.

- 4 This barely scratches the surface of the claim that one cannot be free unless recognized as free, or that I cannot be free if others are not, or that a person can only be free in a modern state. I try to state the conceptual and historical bases for this claim in Pippin (2008).
- 5 This can be put as Yeomans (2015) does: that at the center of Hegel's relation to Kant and so a founding principle of his own theory of objective spirit is moral psychology, not the logic of judgment. Yeomans interprets such psychology in political terms, so it is in effect not as individualist as it can appear. Political psychology might be a more apt term. I try explain why in Pippin (2010).
- 6 Moyar states the problem well.

But Hegel does introduce the estates already at the end of the system of needs to indicate how in principle the problem [access to work] is to be overcome. The estates, and later the more specific form of the corporation, are supposed to eliminate much of the contingency that besets modern economies.

(Moyar 2021: 237)

Just so, but they don't and in a modern economy they can't. This is a problem also addressed in detail by Herzog (2013) who notes that Hegel has a very basic notion of market value, cannot integrate any notion of desert and no mechanism for controlling effectively the often chaotic results of brutal competition in the market. See also Schmidt am Busch: "In der Tat soll mit den §§182–256 der Nachweis erbracht werden, daß die bürgerliche Gesellschaft in der erstgenannten Bedeutung ein instabiles Willensverhältnis ist, das zu seiner Stabilisierung der ‚Polizei‘ und der ‚Korporation‘ bedarf" (Schmidt am Busch 2002: 142). As both Schmidt am Busch and Moyar make clear, the explicit Hegelian goal of the Police and Corporations to insure the *stabilization* of the economic life of civil society, especially the problem of unfair wages and joblessness. But that is not the most serious problem Hegel's own account reveals. Likewise his introduction of the notion of *Standesehre* in PR §253 which is supposed to actualize this standing (that "he is somebody") by mutual recognition, but this seems pretty thin gruel for a factory worker in modern conditions whose life is dominated by a private owner capable of imposing work conditions and termination.

- 7 See Macedo (2017) for a concise summary of the claims made by Anderson and her critics' rejoinders.
- 8 For the best explanation known to me of the bearing of theory of the syllogism on the practical philosophy, see Moyar (2021: 223–7). For a somewhat different account, see Knappik (2013: 189–268), especially 253–68.
- 9 See also PR §199.
- 10 See again Herzog (2013); also the exceptionally clear account in Schmidt am Busch (2002: 96 ff.), and paradigmatically the classic account in Waszek (1988).
- 11 Given the inescapably humiliating conditions of divided labor under modern capitalism, if the argument about worker status were left at this, it would merely be another "higher wages for the slaves" argument. Hegel goes somewhat further (the right of workers to a proper public education, for example), as Moyar (2021) points out in his Chapter 6, but that does not address the problem of worth or standing. Schmidt am Busch is right that "Dadurch daß ihre Mitglieder absichtlich füreinander tätig sind, bewirkt die Korporation eine immanente Versittlichung der bürgerlichen Gesellschaft" (Schmidt am Busch 2002: 149). But this *Versittlichung* (or "ethicalization," perhaps) seems formal and almost ritualistic compared to the reality of the problem being addressed.
- 12 See Yeomans (2015) for a compelling case for the centrality of talent in Hegel's picture of the role of these institutions.

- 13 A convincing account of what could be called the metaphysical significance of work for Hegel is given by Schmidt am Busch in Section I, “Arbeit als intentionale Tätigkeit,” and Section II, “Arbeit im sozialen Kontext” (Schmidt am Busch 2002: 21–95). See also a similar account in Yeomans (2015: 149ff).
- 14 See his more explicit formulation in the *System der Sittlichkeit*:

Teil, dessen physische Existenz vom Ganzen sich abhängig gemacht hat [...] itzt durch dies Ganze ganz ruiniert wird [...] Denn das Sinken des Werts einer Art von Überfluß und die Unfähigkeit desselben, die Totalität des Bedürfnisses zu vertreten, da an diese Fähigkeit ein Teil des Volkes im Vertrauen auf das Allgemeine seine Existenz geknüpft hat, zerstört diese und betrübt sein Zutrauen.

(SdS 81f.)

- 15 Cf. Herzog’s (2013) account of this problem.
- 16 Hegel does claim that *Standesehre*, which he admits is unavoidably harmed in modern work, requires the restoration of that *Ehre* in a corporation, as when he says: If the individual [*der Einzelne*] is not a member of a legally recognized [*berechtigten*] corporation (and it is only through legal recognition that a community becomes a corporation), he is without the honour of belonging to an estate, his isolation reduces him to the selfish aspect of his trade, and his livelihood and satisfaction lack stability. He will accordingly try to gain recognition through the external manifestations of success in his trade, and these are without limit [*unbegrenzt*], because it is impossible for him to live in a way appropriate to his estate if his estate does not exist; for a community can exist in civil society only if it is legally constituted and recognized (PR §253R). Again the focus appears to be about stability, and that appears to mean economic stability as the source of *Ehre*, and it remains unclear how legal standing alone for such a compensatory mechanism can help all that much.
- 17 Yeomans (2015) has specified the elements of Hegelian autonomy in much more detail than was possible here (the actualization of a free, socially dependent, rational being) but his useful specification of the moments of such actualization—self-appropriation, specification of content, and effectiveness—makes it even harder to see how the laboring conditions under capitalism are anything other than profound, unavoidable and structurally ineliminable barriers to the actualization of autonomy so specified.

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13 Civil Society and Its Discontents

Hegel and the Problem of Poverty

Stephen Houlgate

In his masterful biography of Hegel, Terry Pinkard writes that the latter was “acutely aware of the problem that extreme poverty poses for civil society,” but his “philosophy contained no answer to the problem” (Pinkard 2000: 486). Here I defend an alternative view, namely that Hegel sees an answer in the *corporations*. I first defended this position in 1991, but it has remained a “minority view” (Houlgate 2005: 204–6; Williams 1997: 251).¹ Similar interpretations have been advanced (Anderson 2001; Hudson 2014) but most commentators agree with Allen Wood that “Hegel does not present the corporation as any sort of general solution to the problem of poverty” (Wood 1992: 47). Indeed, many insist (with Shlomo Avineri) that Hegel is “unable to provide a radical solution” at all (Avineri 1972: 148).

13.1 Hegel’s Philosophy of Right

Many take Hegel’s *Philosophy of Right* (PR) simply to reflect the historical circumstances of his time. His aim, on this view, is “to reconcile people to the modern social world as it is here and now” (Hardimon 1994: 249). My understanding of Hegel’s project is somewhat different. I agree that his philosophy is rooted in the modern spirit of freedom (Houlgate 2005: 26–9). His PR, however, is not just a reconstruction of freedom in the modern state – a reconstruction that would look different if the state were to change in the future. The PR is governed by reason, or the “concept,” and sets out the *logic of freedom* – what freedom, logically, must be. This is not to deny that Hegel draws on examples from modern states, including Britain, to flesh out the forms of freedom and right he examines; but the latter are made necessary by the logic of freedom, not the prevailing circumstances. Hegel is unequivocal on this point:

In philosophical cognition, [...] the chief concern is the necessity of a concept, and the route by which it has become a result [is] its proof and deduction. Thus, given that its content is necessary for itself, the second step is to look around for what corresponds to it in our representations [*Vorstellungen*] and language. [...] But it [the representation] is so far from

being the measure and criterion of the concept which is necessary and true for itself that it must rather derive its truth from the concept, and recognize and correct itself [*sich berichtigen*] with the help of the latter.

(PR §2R)

Hegel's account of freedom is thus not just descriptive (or "reconstructive"), but *normative*: it tells us what freedom *must* be. This does not mean, however, that it merely presents what freedom *ought* to be. As Hegel puts it in the Preface to the PR, philosophy "must distance itself as far as possible from the obligation to construct a *state as it ought to be*" (PR 21/TWA 7:26). Yet how can Hegel's account of the state be normative and not prescribe what freedom and the state ought to be?

The familiar distinction between the "is" and the "ought" is found in the work of many philosophers, including Hume and Kant. Hegel, however, draws a threefold distinction between what there simply is (or mere "existence"), what ought to be, and what something is *in truth* – what he also calls the "concept" or "Idea" of a thing (as, for example, in PR §1's "Idea of Right"). The latter differs from mere "existence" because it is what something is according to reason – what, logically, it must be if it is to be that thing – whether or not it actually exists. In this sense, the *concept* of freedom is normative: it determines what true freedom must be, whether or not it is found in the world. Yet precisely because this concept is grounded in reason, it determines not just what freedom *ought* to be according to "opinion" (*Meinen*), but what freedom *is* in truth, when it is understood properly (PR 22/TWA 7:26).

Hegel also insists, however, that "reason is not so powerless that it only remains an ideal" (LPWH 27/VuPW 28, translation amended). Reason actualizes itself in the world, and indeed constitutes "actuality" itself – hence Hegel's notorious *Doppelsatz*: "what is rational is actual, and what is actual is rational" (PR 20/TWA 7:24). Accordingly, in his philosophy of history (which follows the PR), Hegel shows how true freedom has become "actual" – a historical *reality* – in modern constitutional states. He shows, however, that modern states, such as Britain and France, embody true freedom only *more or less*, and that none is the perfect embodiment of the state presented in the PR. In Hegel's view, freedom in the state develops through different, and in various ways inadequate, forms in history (including the *polis* of ancient Greece and the feudal state of medieval Europe); but even when true freedom becomes a historical actuality (in modernity), it does so only imperfectly because of the contingencies that belong to history. As Hegel puts it in his 1824/25 lectures on the philosophy of right, "the state is no pure artwork, it exists in the world, and so exists in the sphere of arbitrariness, contingency and error, [and] bad intention can disfigure it in many respects" (GW 26:1406).² Reason, for Hegel, does not, therefore, govern all aspects of modern states, but is "the rose in the cross of the present," a cross that is all too real (PR 22/TWA 7:26).

Insofar as modern states realize the true idea of freedom – and so incorporate the forms of right set out in the PR – philosophy justifies their basic structures. Otherwise, however, the PR provides a rational standard by reference to which a state or institution can “correct itself” (PR §2R) and so becomes a “critique of the status quo” (Williams 1997: 260). Frank Ruda maintains that Hegel does not tell us “what a state or a civil society should look like,” but rather depicts “the status quo of contemporary society” (Ruda 2017: 175–6). By contrast, Frederick Neuhouser argues – rightly, in my view – that the PR contains “the normative standards” with which Hegel can “evaluate the social order” (Neuhouser 2000: 174). Insofar as a state falls short of true freedom, these normative standards set out precisely what that state “*should* look like.” They are based, however, not on “opinion” (and so are not a *mere* “ought”), but on what, logically, true freedom is and must be. They form the core, therefore, of Hegel’s *critical theory of freedom* based on reason.³

This is true especially of Hegel’s idea of the corporation. Corporations were accorded a significant position in the Prussian General Code of Law (1794) (Vieweg 2012: 338) but, as Hegel notes, they were abolished in France (under the Loi Le Chapelier of 1791) and withered away in Britain (GW 26:997, 1443; PR §290A; Houlgate 2005: 205). Yet Hegel understands them to be logically necessary components of a truly free, rational state. He thus advocates maintaining and restoring them “against the apparent current of history” (Kervégan 2018: 203) and his normative theory of the corporation thereby becomes a *critique* of present circumstances. As Philip Kain puts it, “civil society brought the decay of corporations,” and “in Hegel’s view, corporations ought to be revived to combat this” (Kain 2014/2015: 50). This is evident in particular in Hegel’s 1824/25 lectures, in which he maintains that in France “the endeavour [*Bestreben*] of all thinking men is to constitute communes,” and that, more broadly, “the task of the time is to form corporations, [but] people do not want to resolve to do so; the need is present, but people fear thereby acting against principles that hold abstractly” (GW 26:1397, 1443).

Since corporations, for Hegel, are made necessary by the logic of freedom, they cannot be rejected on the grounds that they are historically outdated – a strategy adopted by both liberal and Marxist critics of Hegel’s PR. Corporations are essential for true freedom, so if they are absent in modern states, that is a reason for criticizing the latter, not for discarding the idea of the corporation. It is true that, for Hegel, “the owl of Minerva begins its flight only with the onset of dusk,” or – less poetically – that philosophy, “as the *thought* of the world, [...] appears only at a time when actuality has gone through its formative process and attained its completed state” (PR 23/TWA 7:28). Yet once the “thought,” or concept, of true freedom has appeared, and (as Hegel claims) has been articulated in the PR, it *remains authoritative* for all states and individuals that lay claim to being free. If, therefore, a modern constitutional state claims to be free, but lacks corporations, the idea of true freedom requires that it develop them. This is true for all such states in

the post-Hegelian world: the “task of the time” for these states is “to form corporations.”

Since Hegel’s theory of freedom is grounded in reason – in the “*necessity* of a concept” (PR §2R) – we must pay close attention to the logical order in which the moments of freedom arise in the PR if we are to understand what Hegel regards as the causes of and solution to the problem of structural poverty in civil society. In so doing we see, as Lisa Herzog notes, that Hegel discusses the corporations “*after* having described the failure of the police’s measures to fight poverty, which might indicate that they present a response to the problems” of poverty (Herzog 2013: 107). Herzog remains sceptical about this possibility and maintains that, for Hegel, in the end “the best solution might be to let the poor beg for themselves” (Herzog 2013: 107). By contrast, I contend that, in Hegel’s view, the corporations do, indeed, solve the problem of structural poverty in civil society – or rather that they prevent this problem from arising in the first place.⁴

13.2 The System of Needs

Hegel begins his examination of civil society with the “system of needs” (PR §188) – the free production and exchange of goods that, in his view, is a necessary form of freedom. The participants in this system are not only persons, conscious of their abstract right to own property, but also moral subjects, conscious of their right to find *satisfaction* through their actions (PR §§44, 121). Yet they are also “concrete” persons – fully *human* beings – who satisfy their needs by means of things that are the “*property* and product of the needs and *wills* of others” (PR §§182, 189). Members of civil society are thus participants in a system, not only of needs but also of social and economic interdependence.

For Hegel, the key to understanding this system is the difference between human beings and non-human animals. The animal, Hegel writes, has a “limited circle of means and ways of satisfying its likewise limited needs” (PR §190, translation amended). Some insects, for example, are tied to a specific plant, and some animals can live only “in one climate” (GW 26:954, 1316). Human beings, by contrast, “transcend” such natural limitations by diversifying their needs. They do so by “*multiplying*” the latter – developing many different needs – and by “*dividing* and *differentiating*” them into “individual parts and aspects which then become different needs” themselves – needs that are “*more abstract*,” that is, more specific and one-sided (PR §190). Humans want not just to keep warm, but to wear clothes made of *this* fabric and in *this* colour (rather than those) (GW 26:1317). In the process, they also have to diversify – divide and multiply – the *means* of satisfying their diverse needs (PR §191). Their needs and the means of satisfying them thus become ever more “refined.”

What drives forward this diversification of needs and the means of satisfying them is human *understanding* (*Verstand*). Understanding is (among other

things) the capacity to think *beyond* the givens of nature, and beyond any particular needs or desires we have.⁵ It is also the capacity to “grasp the diversity of differences.” Accordingly, it is “through his understanding” that the human being brings “multiplicity into needs and the means of satisfaction” (GW 26:954; see also ES §525). Needs are also created by our imagination⁶ and by comparing ourselves with others. We seek to imitate others but also to get ahead of them (PR §193), and in these ways needs become not just personal but *social*: we need something because it is, or will be, fashionable in society (PR §192; see also GW 26:105, 459).

Human needs are thus not just natural, but “a combination of immediate or natural needs and the spiritual [*geistig*] needs of *representation*” (PR §194). They are in part needs of the body, but they are much more the products of our intelligence, desire for recognition, and our education. As Hegel puts it, it is our “opinions [*Meinungen*] that are to be satisfied” (GW 26:955). For Hegel, therefore, there is ultimately no clear distinction between “natural and educated needs,” between basic needs and the desire for “luxury” (PR §195). Everything depends on the social context: as Hegel notes in 1819/20, one can do without a watch in “simple circumstances,” but not in “more complicated circumstances,” so in the latter a watch becomes not just a “luxury” but a necessity (GW 26:458).

In Plato’s *Republic*, Socrates begins to “create a city in theory” by identifying the “needs [...] that will create it” (Plato 1992: 369c). These include the need for food, shelter, and clothes. These basic needs, however, merely ground what Glaucon calls a “city for pigs” (Plato 1992: 372d). By contrast, we are told, a city fit for humans must be a “*luxurious city*,” one filled “with a multitude of things that go beyond what is necessary for a city” (Plato 1992: 372e–3b). Yet Socrates contends that in such a city, in which people have “overstepped the limit of their necessities,” they will surrender themselves to the “endless acquisition of money” (Plato 1992: 373d). A luxurious city will thus be one in which needs and desires have no limit. The same is true, for Hegel, in the “system of needs.” Here, too, there is no limit to – no measure that governs – our needs. This is due, however, not just to greed, but to the fact that human needs are multiplied and diversified by our understanding that can always go *beyond* any limit set for it. In the system of needs, our needs and desires can thus be multiplied “to infinity” (*ins Unendliche*) (PR §191, translation amended). This is true especially in the commercial estate or “estate of trade and industry” (*Stand des Gewerbes*). In this estate, human activity is governed, not by nature (as in the agricultural estate), but by “reflection” and “understanding,” and as a consequence it displays “insatiability, measurelessness, limitlessness” (GW 26:1335).⁷

Yet not only does the multiplication of needs have “no limit” (GW 26:1317), but the same is true of the division of labour that such multiplication makes necessary. Labour, for Hegel, is a distinctively human activity. Animals consume what is provided by nature (though some use tools), but humans *work* on things to adapt them to their more specialized needs, so “it is human

effort which he [the human being] consumes" (PR §196). Human understanding, however, with its capacity to distinguish or "abstract" one thing from another, drives forward the *division* of labour. As needs become more specialized, so too does the labour required to meet those needs. Labour is thus divided (by our understanding) into activities that are "abstract" or one-sided, even when they are in themselves complex (such as watch-making).

Understanding, however, not only goes beyond any qualitative limit and so constantly generates desires for things with new qualities, but it also goes (or seeks to go) beyond any *quantitative* limit it encounters. Consumers in the system of needs thus want more and more of what they desire: they are driven by the prospect of "endless acquisition." Moreover, as society becomes more prosperous, more and more people want what is fashionable. Consequently, production has to be increased, and individual craftsmanship gives way gradually to mass production in factories. This in turn leads the understanding to divide productive labour into tasks that are more "abstract," not only in being one-sided but also in being less complex and more mechanical. Through such division of labour, Hegel writes, "the work of the individual becomes *simpler*, so that his skill at his abstract work becomes greater, as does the volume of his output" (PR §198).

As is well known, Hegel draws, in his remarks on the division of labour, on Adam Smith's account of work in a pin factory (GW 26:111, 463; Smith 1982: 110; Waszek 1988: 128–32). What is more important for our purposes, however, is that Hegel traces the increasing division and simplification of labour to the *understanding*, whose activity of division and "abstraction" – like its multiplication of needs – is without limit or measure.⁸ As factory work becomes simpler and easier to carry out, Hegel argues, those undertaking it lose mental stimulation and require less education, and their minds can thus become "degraded" (*degradirt*) (GW 26:961). Eventually, when work reaches its "last abstraction" and becomes quite mechanical, machines take over and the workers "step aside." (GW 26:111; PR §198). Since workers have the right to secure their subsistence through their labour, and so have a right to work, Hegel notes that "new sides must be opened for them" when they are replaced by machines (GW 26:1326).⁹ Yet he also points out that precisely because their skills are limited, and their minds have been "dulled" by their work, they have "hardly any other way to gain a living" (GW 26:1325).

Hegel describes the "deadening [*Abstumpfung*] of the human being in a factory" as a "sad picture" (*trauriges Bild*) (GW 26:111). One should recall, though, that this picture, or rather reality, is ultimately the product of a system of needs driven by the *understanding* – an understanding, without limit or measure, that constantly seeks new means of satisfaction, and more and more satisfaction, and that consequently pushes the division of labour to the point at which human activity becomes inhuman and mechanical. Even before the public authority (or "police") is introduced, therefore, civil society as a "system of all-round interdependence" is already the "state of the understanding" (*Verstandesstaat*) (PR §183).

13.3 The “Police” (Polizei)

The idea of right, for Hegel, unites opposing categories. Abstract right is the *universal* right of *individuals* to own property, and “moral” right is the *universal* right of individuals to satisfy their *particular* interests. In civil society, however, the principle of particularity predominates: individuals are concerned above all to satisfy their own *particular* needs – needs that can be multiplied without limit by our understanding (PR §§182, 184–5). Yet the “particular person” is necessarily related to “other similar particulars,” and “their relation is such that each asserts itself and gains satisfaction through the others.” This system of interdependence constitutes the moment of “*universality*” – the universal “*continuum*” (*Zusammenhang*) – by which the satisfaction of particular needs is mediated (PR §§182–3, 187). This “continuum” in turn divides itself into “*particular systems of needs*” – the estates – with their corresponding “varieties of work” and “modes of satisfaction” (PR §201).

Individuals within each estate acquire the skills and education, as well as the “rectitude” and sense of “honour,” belonging to that estate, and in that sense their particularity becomes informed by the “universal” within which they work (PR §207). Yet, especially in the commercial estate, their principal concern remains their own particular “knowledge and volition” (PR §208). The universal – in the form of abstract right – becomes the explicit object of concern, however, and is asserted *against* particular individuals who violate it, in the administration of justice (*Rechtspflege*), or the court system (PR §§219–20). The universal – in the form of right – is also the explicit object of the “police” (*Polizei*). Indeed, Hegel describes the police specifically as the “power [*Macht*] of the universal” (PR §231, translation amended).

Yet the role of the police differs from that of the courts, since it consists, not in re-establishing the primacy of abstract right after its violation, but in protecting the public *from* such violation – by bringing criminals to justice – and so guaranteeing the “*undisturbed security of persons and property*” (PR §230). Furthermore, Hegel takes the police to be responsible, not only for law and order but also for realizing the “moral” right of individuals to secure their livelihoods. The term “police,” therefore, refers to a “public authority” (*öffentliche Macht*) whose task is to ensure “that *particular welfare is treated as a right and actualized*” (PR §§230, 235).

More specifically, the public authority ensures that the conditions are present for all individuals to secure their welfare through their labour, and that “contingencies” in the system of needs do not prevent some from doing so. This requires the authority to oversee matters of “common interest” (PR §235), so that people can continue “unimpeded” to acquire and exchange the means for satisfying their needs. Tasks that fall to the police thus include maintaining street lights and bridges, and keeping the “most common necessities of life” available and affordable (PR §236).¹⁰ The police must also protect “the public’s right not to be cheated” and so regulate weights and measures; oversee the economy as a whole and supply the appropriate

“provision and direction” when circumstances abroad affect the home market; protect public health (which Hegel regards as “a more important right than the exercise of a trade”) through, for example, requiring children to be vaccinated; and ensure that children receive a school education (PR §§236, 239; GW 26:1380, 1387). It is also the role of the police to provide aid to those who fall into poverty through mechanization, bad luck, or their own “extravagance.” In such cases, Hegel maintains, the police must both meet the immediate needs of impoverished individuals and encourage them to seek new work (even against their own will), and indeed help to open “new sides” – new employment opportunities – for them (PR §§240–1; GW 26:495; GW 26:1326).

The public authority belongs (with the judiciary) to the “executive power” of the state (PR §287).¹¹ At this point in Hegel’s argument, however, it is conceived, not as a political entity, but as a “welfare state” – an institution that regulates economic activity in order to ensure that the right of individuals to satisfy their needs, and secure their welfare, is realized (PR §230). As such, the public authority sets a limit to the “freedom of trade” (*Gewerbsfreiheit*) in order to protect the “right of consumers,” which is often “set too much to one side” by such “freedom” (GW 26:991).

This authority, however, regulates the economy in an “external” manner (PR §231). It stands over against the sphere of particular interests as the “power of the universal,” and it intervenes in that sphere to protect matters of “common interest,” albeit with the aim of securing the universal right of *particularity* “to develop and express itself in all directions” (PR §§184, 235). In the *Science of Logic* the universal that stands over against the particular is conceived as the “*abstract universal*” and is said to belong to the understanding (*Verstand*) (SL 537–8/GW 12:39–42). The public authority, as the arm of the state that regulates civil society from above, is thus the “state of the understanding” (*Verstandesstaat*) in its explicit form (GW 26:1377). It asserts the authority of the “universal” over the system of particular needs that is itself driven by the understanding to endless growth (and in that sense is already the “state of the understanding” (PR §183)).

Note, however, that the public authority does not control every aspect of economic life. It regulates certain aspects of the economy – by, for example, controlling the prices of basic necessities and combatting fraud – but otherwise it imposes no limit or measure on economic activity and gives free rein to the needs and choices of individuals. The public authority does not, therefore, alter the principle governing the system of needs: people may still seek to *maximize* their personal satisfaction, wealth and profit (provided they do not defraud or directly harm one another in so doing). The system thus remains geared towards *measureless* growth and expansion, and competition between producers will still drive down costs and wages leading to greater wealth for some and greater hardship for others (and it is worth noting that low-paid jobs can be found throughout a “free and fair” economy, not just in

factories). As a consequence, Hegel claims, police regulation of the economy cannot stop the emergence of systematic *poverty* – poverty that is not just contingent, but the necessary product of the system of needs itself.

13.4 Poverty and Its Causes

What, then, does Hegel understand by “poverty”? It is to lack the necessary means of subsistence – the minimum required for life in society (PR §244). This minimum, which varies from one society to another (GW 26:1390; Hardimon 1994, 236), includes adequate food, clothing and shelter, as well as the skills and financial resources (“capital”) needed to earn a living (PR §200; GW 26:752). Lacking this minimum deprives the poor in turn of their basic *rights* in civil society – their abstract right to own property, their “moral” right to satisfy their needs, and their “ethical” right to achieve satisfaction through their “own activity and work” (PR §244). Poverty, accordingly, is not just an unfortunate side-effect of a dynamic economy, but a fundamental “injustice” (*Unrecht*) that should be prevented (GW 26:1390–1; Vieweg 2012: 318).

For Hegel, however, poverty involves not only material but also “spiritual” deprivation. It deprives the poor of the sense of “self-sufficiency and honour” (PR §245) one gains through work – either because their work is menial or mechanical, or because they are unemployed – and it also deprives them of recognition from their peers: “the poor man,” Hegel states, “feels excluded from everything and scorned” (GW 26:498). Poverty can also deprive those affected of the benefits of education and religion (because the poor lack Sunday clothes or have to work on Sundays), and it can prevent them from getting justice through the courts and protecting their health (see PR §§241, 243; GW 26:498; GW 26:752; GW 26:1388–9).

Poverty can also give rise to an impoverished underclass or “rabble” (*Pöbel*) (PR §244). A rabble, for Hegel, is characterized not just by material deprivation, but also by a sense of “indignation” (*Empörung*) – indeed, of “envy and hatred” – against the rich, civil society and the government (GW 26:498–9, 1390–1). This indignation arises because the poor feel deprived of their rights within a society they expect to protect those rights: the rabble mentality is the “consciousness of lacking rights [*Rechtslosigkeit*] under the presupposition of right” (GW 26:754). Moreover, the rabble feel that their poverty is not merely a natural occurrence, but the fault of others who continue to enjoy the rights and benefits of civil society. They thus experience their poverty – quite rightly – as an *injustice* inflicted on them by society (GW 26:1390–1). This sense that their rights are not recognized by others leads the rabble in turn to disregard the rights of the latter and even to resort to crime: as Hegel puts it, the rabble feel “released [*entbunden*] from respect for the rights of others” (GW 26:754). At the same time, they feel entitled – that they have the *right* – to receive support without any corresponding labour on their part and so exhibit what Hegel calls “shamelessness” (GW 26:499).

Hegel is by no means “sentimental about the rabble” (Knowles 2002: 289). Yet he understands clearly the deprivation in which poverty consists and identifies three specific causes of the latter. These causes, in his view, arise from the very nature of civil society as an externally regulated system of needs.

The first cause is the division of labour. As we have seen, in civil society understanding diversifies people’s needs and divides labour into more specialized tasks to meet their more specialized needs (PR §§190–1, 198). The division of labour also enables production to be increased as people want more of what they desire, and more people want what is fashionable. More precisely, mass production is facilitated by dividing tasks into simpler ones that are quicker to perform (as in the pin factory described by Smith).¹² In this way, however, workers become increasingly dependent on the branch of industry to which they belong and vulnerable to fluctuations in demand. Furthermore, as labour becomes ever more “abstract” and eventually quite mechanical, workers are replaced by machines, lose their livelihood and thus fall into poverty (PR §198).

The second cause of poverty is increasing economic inequality in civil society. Those with greater skill attract more customers, and so build up more capital, than others, and this allows them to reduce the profit they make from each transaction, to sell their goods more cheaply and to attract even more customers. This in turn makes it harder for their competitors to make a living, and they thereby become poorer relatively, as the successful producers become wealthier (GW 26:753). Workers too become impoverished as producers lower their costs and thus the wages they pay; and the availability of “many people who work for little pay [*geringen Lohn*]” gives successful capitalists a further advantage, causing the “lesser capitalists to fall into poverty” (GW 26:1391). In “pure” civil society, therefore, the generation of wealth goes hand in hand with increasing poverty. Indeed, Hegel states, “trade [...] increases, the more miserable the working class [*die arbeitende Classe*] is, and thus the cheaper its labour, so that the merchant can sell more cheaply” (GW 26:997).

The third cause of poverty is overproduction (see PR §245). The latter arises for two reasons. On the one hand, in civil society, geared towards maximizing profit and wealth, productive capacity increases without limit or measure (especially through the introduction of machines) (GW 26:1392–3). On the other hand, as we have seen, mass production and economic competition impoverish workers and some producers, thereby diminishing their ability to consume what is produced. Eventually, production exceeds society’s capacity for consumption and so has to be cut back, causing unemployment and poverty (GW 26:994–5).

Note that in his account of poverty and its causes Hegel does not just describe empirically what happens in certain modern states. He examines a distinctive form of freedom, namely civil society – the system of needs, together with the public authority – and he argues that this society, when taken on its own, or in the abstract – without the corporations or the political state – gives

rise *logically, necessarily*, to systematic poverty and so to the negation of the very freedom it embodies. This is not to say that such poverty is inevitable in every modern state with a civil society, since Hegel thinks that the right institutions and policies can prevent it from emerging. Yet he also thinks that poverty will, and must, arise in states that come close to being “pure” civil societies, as the example of nineteenth-century Britain demonstrates (GW 26:997).

As we have seen, the more specific problem with civil society is that – in the commercial estate in particular – it is governed by *understanding* that is without limit or measure. Its members are conscious of their right to own property and satisfy their needs, but their understanding reaches *beyond* any limit set for it and so generates what Avineri calls a “craving after unlimited desires” – desires for ever more wealth and “luxury” (Avineri 1972: 146). Wealth thus has “no qualitative limit in it,” and consequently civil society is engaged in “unrestricted” growth (GW 26:115; PR §243). This drive to maximize production and consumption leads in turn to increasing economic inequality, overproduction and poverty. The latter can thus itself increase without limit, which is one reason why Hegel describes poverty in England as a “cancer” (GW 26: 997, 1404).

Civil society, taken on its own (and regulated only by the police), is therefore “too rich” to prevent poverty arising, for it is precisely its excess of wealth and productive power that creates poverty (GW 26:502). An impoverished rabble is thus inseparable from a “rich rabble” that seeks to accumulate whatever it desires at whatever cost (GW 26:500, 754; Ruda 2017: 166). Yet civil society is also too poor to solve the problem of poverty: for “despite an *excess of wealth*,” it is “*not wealthy enough* – i.e. its own distinct resources are not sufficient – to prevent an excess of poverty and the formation of a rabble” (PR §245).

This is not to deny that the public authority can take measures to alleviate the plight of the poor. It can cap the prices of basic necessities (as we have seen), and it can also provide direct financial support to the poor through a benefit system funded by taxation. The latter option, however, protects the livelihood of the needy “without the mediation of work,” and so gives them no “feeling of self-sufficiency and honour” and indeed can lead to so-called “welfare dependency” (PR §245).

The public authority can also (and, indeed, is obliged to) provide opportunities for the poor to work.¹³ In Hegel’s view, however, this will increase the volume of production and so compound the problem: for the “evil” consists precisely in “overproduction and the lack of a proportionate number of consumers” (PR §245). Some maintain that this problem can be avoided if, following Keynes, the poor are employed in “public” works, such as road building, that do not directly increase the supply of goods – an option suggested by James Steuart, with whose writings Hegel was familiar.¹⁴ The problem with this suggestion, however – and also with the options of state benefits, increasing exports, and encouraging the poor to emigrate – is that

they do not address what Hegel sees as the main issue: for none curbs the endless, “measureless” drive to *maximize* production and growth – the drive that, for Hegel, necessarily produces poverty. In this respect, civil society (regulated only by the police) remains “too rich” and “too poor” to prevent the emergence of systematic poverty (see PR §245; GW 26:502).

13.5 The Corporations

For Hegel, systematic poverty is not just the price we pay for prosperity. It is a violation of right and as such must be prevented from arising in a truly free, rational state (GW 26:1390–1). Moreover, in his PR Hegel does not claim that poverty is generated by such a state. It is generated by civil society that is still merely a *Verstandesstaat* – an economic system driven by the understanding to seek limitless growth and regulated by the understanding in the form of the police, but *without* corporations or the political state. Hegel maintains that the corporations still belong to civil society, rather than the political state; but (*pace* Herzog) he insists that they do not form part of the *Verstandesstaat*.¹⁵ Their role is rather to transform us from agents governed by *understanding* and selfish desire into ones that are *rational and ethical*; and in so doing, I contend, they prevent systematic poverty from arising in civil society.

The corporations, as Hegel conceives them, are not mere vestiges of the medieval world (see Heiman 1971: 117; Kervégan 2018: 339). They are made necessary by the logic of freedom, by *reason*, and so are components of the rational modern state. Hegel argues that the public authority oversees matters of “common interest” to members of civil society, and thereby preserves the “universal” contained in “particularity;” but it does so as an “*external order and arrangement*,” as an independent regulatory body (PR §§235, 249). According to the “Idea,” however, particularity *itself* must have as its purpose the “universal that is in its immanent interests” – the universal that is *particular* to it. This universal – the interest common to a particular trade or community, rather than society as a whole – is recognized and affirmed within the *corporation*.

In the estates, individuals are already informed by their particular “universal,” insofar as they acquire the skills, education, and “rectitude” appropriate to their estate (PR §207). Yet, especially in the commercial estate, their principal concern remains their own particular interests and personal satisfaction (PR §208). In a corporation, by contrast, the universal immanent in a particular sphere of activity is the *explicit* concern of its members. While pursuing their self-interest, therefore, individuals are also “raised to a conscious activity for a common end” – their particular common, or “universal,” interest (PR §254). Herein, Hegel claims, lies the “rationality” of the corporations (GW 26:145).¹⁶

It goes without saying that corporations, for Hegel, are not large profit-making companies (such as Google). They are principally business or trade associations that include employers and employees working in a given

area (such as millinery or carpentry) (see Hardimon 1994: 197). They can, however, also include local communities and towns, and even religious communities.¹⁷ All such corporations are overseen by the public authority and should not be wholly independent bodies (as formerly in France and Germany) (see PR §252; GW 26:1403). Yet they are distinct from the state, and indeed provide a counterweight to its executive power if the latter should be “misused” (PR §295; see also GW 26: 1443; PR §290A).

Within the corporation its members continue to satisfy their particular desires through their labour, and in this respect, their activity remains “selfish” (*selbstsüchtig*) (PR §251). Yet it ceases to be purely (or even primarily) selfish because members also promote – consciously – the rights and interests of their fellows. Their activity is thus self-consciously “ethical” (*sittlich*): I care for my own well-being, but “I also care for associates of the same trade, for something universal” (GW 26:759; see also PR §249). Furthermore, the support that members receive from one another, in good times and bad, is recognized to be a *right*, not just charity. The corporation in turn thus has the right to “impose more duties” on its wealthier members to use their wealth for common ends (GW 26:761).

Members of a corporation also receive *recognition* from one another for their skill in their profession, and in this way each enjoys “*honour in his estate*” (PR §253). Such recognition confirms the identity of each member as, for example, a hat-maker or carpenter and thus establishes that “*he is somebody*” in the eyes of his fellows. This recognition by one’s peers means in turn that one does not have to seek recognition for oneself through “external manifestations of success” in one’s trade, that is, through accumulating conspicuous wealth (PR §253R). Recognition within a corporation, together with the ethical spirit and habits cultivated in the latter, thus overcomes what Herzog calls the “risk of unbridled consumerism” in civil society (Herzog 2013: 132).

Without the corporations, Hegel maintains, individuals enjoy no institutional recognition as subjects with particular abilities (rather than just abstract persons under the law), so they try to prove their worth, and thereby gain general recognition, through “*external evidence*,” namely wealth (PR §253). There is, however, no intrinsic limit to such evidence, no point at which one is clearly rich enough to count as “somebody.” Individuals in a civil society without corporations are thus driven by their understanding to go beyond any limit they encounter and to strive for more and more wealth and “luxury:” in Hegel’s terms, they seek the “bad infinite” (GW 26:1309). As Hegel reminds us, however, the love of luxury and extravagance is “associated with the creation of a rabble” (PR §253R). Civil society, regulated by the police but *without* corporations, necessarily produces poverty as a counterpart to great wealth. “In England,” Hegel remarks, “there is the most monstrous poverty and rabble mentality, and a large part of this cancer is due to the removal of the corporations” (GW 26:997).

Within corporations, by contrast, individuals no longer need to strive endlessly, through understanding, to go beyond their current wealth in order to

prove their worth: their selfhood no longer lies in an ever deferred *beyond*. Rather, they are confirmed in who they are – and so, as it were, returned to themselves – by the *recognition* they receive from their associates. They enjoy thereby the true “infinity” – the infinity of reason, rather than understanding – that consists in finding oneself in and through the other, in mutual recognition. The recognition we gain from our peers thus constitutes a “measure” (or limit) in our lives that we do not need constantly to transcend. We must, of course, work to maintain such recognition and to satisfy our needs. Once an individual has been accorded recognition within a corporation, however, “the economically destabilizing need to prove himself through conspicuous consumption vanishes,” and with it the major cause of systematic poverty is removed (Anderson 2001: 198). The corporations thus provide a solution to the otherwise intractable problem of poverty in civil society by transforming a mere system of needs (regulated by an external authority) into a society that is *ethical* and *rational*.

Corporations also address the problem of *overproduction* by limiting their membership in light of the “universal context,” and thus the number of people who can produce certain goods (PR §252). In this way, they endeavour to keep production proportional to expected consumption and to avoid the excess production that puts people out of work. Hegel is aware that producers can create their own demand – that needs are generated by the “desire for profit” of those who draw attention to our “discomforts” (*Unbequemlichkeiten*) (GW 26:955; see also PR §191A). Yet he also thinks that, in a “pure” market economy, oriented towards maximizing production, the latter can become so great that it far exceeds what can be consumed (partly by depressing the wages of workers), and that, accordingly, production needs to be regulated. Regulation can, of course, be undertaken by the police, but the latter is an external authority whose actions can appear “malicious” (GW 26:990; PR §234A). Within the corporations, by contrast, control of production is undertaken by the producers themselves, and so in that sense is self-imposed (see Houlgate 2005: 205). It is also recognized as serving the common interests of these producers and thus as ethical.

Overproduction, for Hegel, leads to people losing their jobs and falling into poverty, but one might worry that limiting the production of certain goods itself deprives would-be producers of their livelihood. Indeed, Hegel notes at one point that if too many people enter a trade and cannot be taken up by a corporation, they may be forced to emigrate (GW 26:1404). Yet he also states that one role of corporations is to “educate others so as to make them eligible for membership” (PR §252). Corporations can thus help those denied admission due to market saturation to acquire different skills that enable them to be admitted after all; and, of course, if circumstances change, and more production in a hitherto oversupplied sphere becomes possible, they can admit more people with the skills required for the latter. Corporations remain, therefore, open rather than closed associations. By contrast, under “freedom of trade” without corporations, the “great capitalists” (such as English brewers) simply

“suppress” (*unterdrücken*) their rivals and establish monopolies through their “great capital,” which are “the worst of all monopolies” (GW 26:1402). No provision is made by such capitalists to help their rivals back into the market, but they are put out of business without any regard for their welfare.

Note that corporations, in Hegel’s view, will not prevent the emergence of all poverty: contingent poverty, due to bad luck or changing demand, remains a possibility. Yet in a society with corporations, both production and consumption will be ethical, and supply will be regulated to keep it in balance with demand. The main causes of *systematic* poverty – the “love of extravagance” of the commercial estate and overproduction – will thus be removed (PR §253R).

13.6 Concluding Remarks

Civil society, as described in the PR before the emergence of the corporations, is an abstraction and does not exist in history in that pure form. In actual modern states with developed civil societies (but without corporations), the family, public education, religion and a sense of common citizenship (or “patriotism”) (PR §268) can all help to moderate the drive for increasing wealth.¹⁸ Not everyone in such states, therefore, will be as “insatiable” in their desires as in the society Hegel describes. Yet many will be insatiable, and if enough become “great capitalists” this will lead to systematic poverty (GW 26: 1402). Note, too, that a strong and pervasive sense of “patriotism” is not sufficient by itself to prevent such poverty from emerging, as we can see in nineteenth-century England, which suffered from the “most monstrous poverty” but also displayed “great patriotism” (GW 26:997–8). This is because, although the state engenders a sense of common purpose within its citizens, it does not make them ethical in their *particular* social and economic activity. For Hegel, therefore, the principal solution to the problem of poverty does not lie in the political state, as some commentators contend (see Jackson 2014: 347–9). It lies, rather, in the *corporations* – commercial and municipal – in which the “so-called *natural right* to practise one’s skill” is “raised to a conscious activity for a common end” and thereby rendered ethical (PR §254). This is not to deny that the public authority has an important role to play in overseeing the whole economy and meeting the immediate needs of the poor (PR §§236, 241). This authority, however, cannot prevent the emergence of systematic poverty; only the corporations, in Hegel’s view, can do that.

Hegel recognizes that corporations no longer form part of certain modern states. They were part of civil society across Europe until Hegel’s day and in that sense were “actual.” (Hegel’s theory of the corporation is thus not utopian.) Yet they were abolished in France and withered away in Britain.¹⁹ They were removed, Hegel claims, because of the modern insistence on the “principle of abstract equality” and “freedom of trade” (GW 26: 1397); that is to say, they were abolished by modern *understanding*. For Hegel, however, this does not alter the fact that they are logically necessary components of a truly

free, rational state.²⁰ Reason in the modern world thus demands that they be reintroduced – for their own sake, but also to address the problem of poverty (GW 26: 1397).

One familiar objection to Hegel's corporations is that they exclude certain people and so leave them exposed to the ravages of the market. There are, however, several responses to this objection. First, although Hegel says in his 1817/18 lectures that "day labourers [and] servants" are not members of corporations, he also states in the same lectures that "no one in the state may be permitted not to be a member of an association" (GW 26:200–1). Moreover, as we know, Hegel includes among recognized "corporations," not just business and trade associations, but also local communities and parishes; so in this respect every member of the rational state can belong to a corporation. Indeed, as Joel Anderson points out, Hegel's theory allows for "membership in multiple *Korporationen* [...], each of which offers an institutional context of ethical socialization" (Anderson 2001: 199). Note too that corporations do not just serve their own members, but (as noted above) "educate others so as to make them eligible for membership" (PR §252). Furthermore, they temper "unbridled consumerism" across the whole economy and thereby benefit everyone, even if some individuals, for whatever reason, do not belong to a corporation.

David James expresses a related concern about Hegel's corporations, namely that they exclude the unemployed and, by implication, the poor (James 2007: 148–9).²¹ Like the previous objection, however, this ignores the fact that, for Hegel, the communities to which the unemployed belong can themselves be corporations. It also overlooks another important feature of Hegel's theory: namely that the role of the corporations in the PR is not to deal with an existing problem of poverty but to *prevent systematic poverty arising in the first place*. Such poverty is made necessary by "pure" civil society (regulated only by the police); but it is no longer a logical necessity in a civil society organized into corporations. Indeed, systematic poverty, as an *injustice*, has no place in a free, rational state at all, so in that respect there should be no poor in such a state for the corporations to exclude. Members of corporations could, of course, still fall into contingent poverty, or lose their jobs through mechanization, but they would then be entitled to the support of their association. The only circumstance in which systematic poverty would exist outside the corporations would be when they are being introduced (or reintroduced) into a state that lacks them and so is governed by the "extravagance" of the rich. In this case, of course, the rich rabble would also fall outside the corporations, along with the poor, until the corporations had established themselves (though the new corporations could still offer to "educate" those who are not yet members). In the PR, however, Hegel is not describing a historical situation in which poverty is already present. He is setting out the *logic* of freedom and arguing that civil society, organized throughout into corporations, would be a society of genuine freedom without systematic poverty.

Note that, despite the concerns of Wood and Herzog, such a society would still be in important respects a “free market” involving the free production and exchange of goods (see Wood 1990: 242; Herzog 2013: 57, 74). Such a market, or “system of needs,” is rationally necessary and may not be eliminated in a free, rational state. So, although corporations train their members to be ethical (rather than merely selfish) consumers, they do not determine what they should consume. Demand in a free, rational state can thus still vary according to fashion, and in that sense members of corporations remain vulnerable to “market factors” (Wood 1990: 242). Similarly, although corporations limit the numbers entitled to exercise their trades, they do not prescribe precisely what their members should produce (for example, red hats rather than green); nor do they determine in advance who may choose a certain trade and apply to join a corporation. So production, though regulated, is still in many respects free.

Wood points out that modern societies without corporations assign some functions of the latter to various “professional organizations” (Wood 1990: 242). For example, one cannot be a teacher or lawyer in many modern states without being accredited, and in some states the number of those who can enter certain professions is capped.²² In such cases, however, we would not deny that people are *free* to choose a career in these professions. Similarly, people in Hegel’s rational state are free to choose hat-making or carpentry as a trade, and they will be able to pursue that trade if the relevant corporation judges that they have the necessary skills and there is sufficient demand for them in society. The rational state thus does not run a command economy, as we see, according to Hegel, in ancient Egypt (PR §236R).

Furthermore, in a rational state with recognized corporations, we will still encounter the diversification of needs, the emergence of “luxury” and some inequality of wealth. There will still be economic growth, technological development, and thus mechanization; and there will still be some excess production. Indeed, as Hegel points out, without some excess there would be no exchange of goods, and so no “living together” in towns (GW 26:110, 115). The corporations, however, will ensure that the economy is not directed at *maximizing* growth and affording the few the chance to accumulate extreme wealth, but rather that society as a whole enjoys the “security of a smoothly continuing profit” and everyone is guaranteed their “livelihood” (*Subsistenz*) (GW 26: 1402). The corporations do so through regulation, and through integrating an *ethical* spirit into economic activity and so freeing us from narrow self-interest to “conscious activity for a common end” (PR §254).

Hegel’s conception of ethical consumption and production, which generate neither extreme wealth nor systematic poverty, is, in my view, no mere ideal – unless we make it so by insisting rigidly on unrestricted freedom of trade. Indeed, this conception chimes (in certain respects) with the demands of contemporary environmentalists, who also urge us to adopt more ethical economic practices. Hegel’s insight, however, is that neither moral education

nor simple self-interest is sufficient to transform us into ethical agents (though both may be necessary). What is required are specific *institutions* that (together with the state) educate us into behaving ethically and partly regulate our activity. These institutions, which modern understanding abolished in the name of its abstract “freedom,” are the corporations.

Notes

- 1 The first edition of Houlgate 2005 was published in 1991.
- 2 See also (PR §258A) and Wood (1990: 249).
- 3 See (ES §544R), in which Hegel criticizes England for sacrificing “rational right” to “formal freedom [*formelle Freiheit*] and particular private interest.”
- 4 Hegel notes that in Scotland begging has proven to be the “most direct means of dealing with poverty” (PR §245R; GW 26:1392). Yet, *pace* Herzog, he does not himself advocate this “solution” to the problem of poverty, for he thinks it discourages people from seeking work: “a human being who has once begged soon loses the habit of working” (GW 26:752).
- 5 On other functions of understanding, see Houlgate (2006: 63–6).
- 6 GW 26:1318: “needs become imaginary [*imaginair*].”
- 7 See Avineri 1972: 144–5: “endless pursuit of commodities.”
- 8 See GW 26:1326: “It is only the work of the understanding.”
- 9 See GW (26:495): “If there are unemployed, they have a right to demand [*ein Recht zu fordern*] that work be provided for them.”
- 10 See also GW (26: 990–1); PR §236A; and Waszek (1988: 202).
- 11 The public authority and the judiciary are, however, distinct institutions (see GW 26:1379).
- 12 See (GW 26:111), and Smith (1982: 110).
- 13 See note 9 above.
- 14 See Avineri (1972: 152); Plant (1983: 227–8); and Waszek (1988: 222) (“by employing them in public works”).
- 15 GW (26:1396): “With this point of view we step out of the state of the understanding.” See Herzog (2015: 148).
- 16 Note that in the corporation the universal is also a more explicitly *particular* universal than in the estates, since it is limited to a specific trade (or local community).
- 17 See GW 26:762; PR §270R (Hegel 1991: 296)/TWA 7:422; Vieweg (2012: 340).
- 18 Such states may also foster a communal spirit through associations and local communities that are not officially recognized corporations.
- 19 See GW (26:997, 1443); PR (§290A), and Houlgate (2005: 205).
- 20 GW (26:1399): “the rationality [*das Vernünftige*] of the necessity of the corporations.”
- 21 See also Ruda (2011: 22): “The corporation always knows a remainder and this remainder is the poverty of those it does not know.”
- 22 On the capping of medical school places by the UK government, see www.gov.uk (“Extra places on medical and dentistry courses for 2021”).

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14 The Organic Lives of States

Antón Barba-Kay

Who is not clever enough to see a great deal in his own surroundings which is in fact not what it ought to be?

(EL §6)

The “social space” or reflective life of our practices has been a dominant theme of Terry Pinkard’s career—a career that, by all its generous erudition, synoptic virtuosity, and philosophical lucidity, has of course been one of the main sources of our uncanny Hegelian renaissance these 30 years and ticking. From *Hegel’s Phenomenology* to *Does History Make Sense?*, no one has done more to show what is alive in Hegel’s conception of Spirit in particular.¹ Pinkard has established, extended, and renewed what is arguably Hegel’s greatest contribution to social theory, if not to philosophy as such: that shapes of life are really alive—more alive, in some sense, than the individuals that comprise them. As the care of philosophy involves us in a kind of necromancy—the art of speaking to the mighty dead—so we owe a debt to Terry for being able to summon and reclaim Hegel for new lives in common thought.

While the conclusion that Spirit is alive takes on several more or less benign forms throughout Hegel’s work, the specific unity of its political shapes continues to sit somewhat uneasily with us in the *Philosophy of Right*’s insistence that the state is a “rational organism” (PR §267). Hegel himself found German nationalism odious, quipping (with his characteristic Teutonic subtlety) that *Deutschtum* was *Deutsdumm*.² Yet to the extent that Hegel insists on the organic character of the state as more than a figurative, he undoubtedly continues to trip Popperian alarms. By seeming to deny the ultimate authority of individual or supra-national rights, the notion of “rational organism” lends itself to the suggestion that what is at issue are reasons of state or some authoritarian conception of the state as an ultimate end. This is evidently at odds with the Rawlsian liberal view of states as (ideally) governed by rational, contractual, and human rights claims.

All the same, there is also something unsatisfactory with our *bien pensant* contractual view of the state—as the promiscuous contemporary use of the term “community” to denote just about any possible assortment of

people suggests. In what follows, I'd therefore like to offer what I take to be a late-Pinkardian reading of what is living in Hegel's notion of the state as a specifically organic whole. I'd like to claim, in sum, that the notion is neither descriptive nor prospective—it does not describe or prescribe some particular state of affairs—but that it has the value of a philosophical criterion. What's more, it *only ever* has had that value; it is a peculiarity of the modern state, in Hegel's view of it, to have a self-conception partly constituted precisely by its inability to realize itself in practice. It both must and cannot know itself whole; that is: it is only ever whole for philosophy. The bald eagle too flies at dusk.

Our ambivalence about whether modern states are best conceived as mechanisms or organisms is longstanding. While its basic elements are implicit in Aristotle, the organicist view was first developed at length by John of Salisbury's *Policraticus* (a possible source for the "fable of the belly" in Shakespeare's *Coriolanus*) and by other medieval writers as a variation on the great-chain-of-being theme. More proximately, it was mobilized by authors like Pascal, Hooker, Hamann, and Burke against the emerging scientific rationalism of the *philosophes*. In the context of counter-enlightenment and Romantic thinkers, the organic view of the state as "rooted" and unified then came to be formulated in opposition to pejorative descriptions of the state as a mechanical, contractual arrangement of autonomous atoms—that is, the organic state presented itself as a way of responding to the inadequacy of an ahistorical, universalist view of the state borne from the application of the natural sciences to the irreducible densities of political life.³ In Schiller's Hellenist telling: "That polypoid character of the Greek states, in which every individual enjoyed an independent existence but could, when need arose, grow into the whole organism, now made way for an ingenious clock-work...a mechanical kind of collective life ensued."⁴ These kinds of characterizations of "organic society" have remained staple criticisms of "rootless cosmopolitanism" from Heinrich Leo to T.S. Eliot to the Brexiteers.

Yet while biological or organicist tropes may raise hackles when in Fichte's or Maistre's mouths, they are by no means the monopoly of the *Blut und Boden* right. The notion of the "organic unity" of political life—the inadequacy of technical rationality to specify the tissue of social life—is invoked under more or less explicit guises by Rousseau, the French physiocrats, Montesquieu, Marx, Weil, and Luxembourg.⁵ Durkheim reserved the term "organic solidarity" for industrialized forms of social cooperation. Within early twentieth-century American progressivism, the notion found a champion in Woodrow Wilson, from whose Spencerian vitalism springs the notion of the Constitution as a "living" document: "government is not a machine, but a living thing. It falls, not under the theory of the universe, but under the theory of organic life. It is accountable to Darwin, not to Newton."⁶ So too the "Oldest Program for a System of German Idealism:" "every state must treat free human beings as mechanical wheels...therefore it should *cease*."⁷

Rather than the peculiar territory of left or right, it would thus be more accurate to say that political organicism has (historically) been a stock way of expressing dissatisfaction with a proceduralist view of the liberal state, the state understood as a universally applicable system of techniques for securing individual rights.⁸ What is arguably liberalism's most powerful feature—the promise of a state neutral with respect to the historical identities of its citizens—has in this way remained vulnerable to the charges that it has no way of accounting for its citizens' loyalties to it and to each other, that it seeks to smother political principles under economic regulation and administrative management, or that it emphasizes the formal disposition of institutions checking and balancing each other at the expense of the mores that practically bind and sustain it.

Hegel's view of the state as a rational organism likewise issues from his critique of liberalism. He elaborates many of the recurring themes of this critique in the *Philosophy of Right* itself: that the relationship between state and citizen is not rightly characterized as contractual (PR §75), that it is impossible to explain the substance of political life if one takes individuals as its constitutive atoms (PR §§273, 290A, 303), that thinking of political constitutions as a priori systems of mutually constraining powers is to be blind to the overarching principles that animate them (PR §§274, 300A), that elected deputies should be thought of as representing collective interests rather than numerical aggregates (PR §311), and so on.⁹ Hegel thinks that the liberal position remains stuck at the level of "reflection"—that it flattens relations of right into terms that cannot themselves motivate or account for their own historical or substantial intelligibility.¹⁰ Yet the inferences he draws from these criticisms are much more ambitious than generic sympathy for them might suggest: namely, that the state represents an emergent form with a life of its own, within which context alone we are able to make sense of our own ethical and political agency. More than just a "back to roots" rhetorical maneuver, Hegel's claim that the state is an organism is so persistent, extensive, and detailed that it demands to be scrutinized in literal terms.

The notion begins to sound less extravagant by contrasting "Ethical Life"—Hegel's name for the evaluative criteria of rights that are only fully actual by virtue of belonging to a certain nation at a certain time—with the forms of agency available to "Abstract Right" and "Morality," the two paradigms from which he dialectically demonstrates the need for it. These positions are not genetically or historically deduced from each other. That is, the demonstration does not proceed from a social situation prior to or more rudimentary than the modern state, the practices and institutions of which make up the notional background of all three of these paradigms. Rather, each constitutes a theory of what is *mine* in an action, what I may be said to be answerable for in relating to others, and therefore (implicitly) what social conditions must bear on the evaluation of an agent's responsibility. I hope learned readers will forgive the briefest rehearsal of them, to the purpose.

Abstract Right describes an intuitive and familiar picture of liberal agency. The relevant agent here—to which Hegel assigns the term “person”—is a generic I, the content of whose volition is spontaneously given and who therefore finds herself in negative relation to other individuals. The grammar of such agency is made up only of prohibitions (PR §38) since the exercise of one’s will is only constrained by the rights of others to exercise theirs (i.e. by principles of tort like consent, bodily harm, and free choice). The person is related to other persons through forensic or contractual principles that are binding only insofar as they are transparent to each agent involved. Abstract Right is therefore a *monadic* form of agency in the sense that its principles are reducible to a first-personal calculus of obligations, the content of which consists in the pursuit of one’s own arbitrarily defined ends, construed as limited by or compatible with those of others.

Abstract Right (ultimately) places those who inhabit it within “a nest of contradictions and stresses,”¹¹ since it has no way of adjudicating the claims to recognition needed to properly contextualize collisions between rights bearers’ incompatible ends. Hegel also criticizes it for inadequately describing the relation between manifest deeds and one’s reasons for them; it’s not clear how an act could count as fully “mine” without a clearer account of the relation between an agent’s deeds and intentions (cf. PR §115). Morality is, by contrast, a *bipolar* form of agency (to borrow Michael Thompson’s term¹²): it is a form of agency constituted by reciprocal duties between agents *as* agents, that is, as subjects of respect in their own right. Hegel calls the relevant agent a “subject” (PR §105). The grammar of such agency is that it “ought;” it affords subjects a way of incorporating the law into their own conviction of how to act (PR §140). Not only is it able to distinguish between deed and act—both within the subject’s self-understanding and within the conditions under which any subject is held to be responsible for an action¹³—it can coherently sustain the subjective demand for recognition of universal claims to the good (cf. PR §132).

Hegel’s transition from Morality to Ethical Life replays that between Chapters 5 and 6 of the *Phenomenology of Spirit*. He argues that, under the guise of pure reason, Morality in fact relies on tautologous formalisms, that it cannot stabilize its relation to actuality, and that it therefore produces insoluble impasses about the relation between intention and deed. It lacks the conceptual resources to specify the extent to which an agent has succeeded in actualizing an intention, or to which the agent was motivated by the right intentions, or to which action itself might be said to genuinely express “my” meaning at all. We stand in need of a third paradigm of agency called “Ethical Life.” If the “person” is the agent governed by Abstract Right and the “subject” belongs to Morality, what is the analogous agent here? It is not the “ethical agent” one might have expected. While Hegel does refer to “ethical man” or the citizen (PR §190), the corresponding agent is rather “the ethical substance, as containing self-consciousness which has being for itself and is united with its concept, [it] is the *actual spirit* of a family and a people” (PR §156). It is, in other words, not only not a person or a subject, and not only a form of life,

but a self-conscious organism—a conclusion that is at least counterintuitive, not to say fishy, once we hear the implication that “the [ethical] spirit has actuality, and the individuals are its accidents” (PR §156).

This evidently doesn’t mean that individuals do or ought to have homogeneous intentions—Hegel insists that it is proper for such a substance to be internally discriminated into estates and classes whose cares are often at odds (PR §§187, 201). Nor does it mean that individuals are unthinkingly or straightforwardly identified with the ends of the state—Hegel often posits that a developed subjectivity (along with its demand for rational justification) is a modern given, that it “constitutes the great difference between the ancient and modern worlds” (PR §279A; cf. PR §317A). Whatever the rational state turns out to be, it must incorporate and harmonize this principle, such that the citizen’s political role is one of the achievements of modern education (a point to which I’ll return). In sum, the basic conditions of the first-personal volition and experience of each are in a sense unchanged under Ethical Life—the ethical substance is no hive mind—even as the basic unit of agency has itself been transposed from the person or the subject into a substantial collective. But what is the point of this qualitative shift? Why is this agent *alive*? And why is it an *organism* in particular?

The shift might be better motivated by calling attention to the relationships obtaining between first-personal reasons for action and the recognitive form within which such reasons are rendered intelligible to others. Both Abstract Right and Morality provide apodictic principles for action; in other words, their purpose is to ground action in reasons fully available to and demonstrable by each agent as rational. I mean that each agent is (notionally, potentially, conceptually) in full possession of the criteria and grounding warrants of what is right. So far from beginning from some alternative theory for grounding such warrants, what is surprising about Ethical Life is that it begins from a position that does not even look like a candidate for reason at all. Hegel claims that the content of ethical life is made up of “laws and institutions which have being in and for themselves,” that “ethical man is unconscious of himself,” that these are the element within which the subject bears witness to its own essence, and that they comprise a system of binding duties that each individual finds already in place (PR §§144, 147, 149). Hegel adds: “Just as nature has its laws, and as animals, trees, and the sun obey their law, so is custom the law appropriate to the spirit of freedom” (PR §151). His indifference here to the particular content of such laws and institutions is striking. Hegel does fix a bottom line that divides the practice of right in the context of the state from forms of life that he regards as sub-historical or unincorporated. At the other extreme, he thinks that he can describe the species that instantiates the concept of right: that he can, in other words, give an account of the rational state.¹⁴ But between these extremes, any state meets the standard of Ethical Life—that is, the customs of *any* state offer a more rational form of right than Kantian morality can. It is the latitude of this conclusion that loudly calls for comment.

Pinkard has given better descriptions than I can of what Hegel means by *Geist*—the activity by virtue of which all practices, thoughts, and institutions express authoritative reasons for belief or action.¹⁵ A fuller explanation of it would require having in view the underlying metaphysical apparatus, particularly the conception that agents can only know themselves as actual by objectifying themselves. But Hegel's point is in part that monadic or bipolar norms cannot be aggregated such as to "scale up" to a qualitatively different structure of right: "the state in and for itself is the ethical whole...Any discussion of freedom must begin not with individuality or the individuality of self-consciousness, but only with the essence of self-consciousness" (PR §258A). Moreover, they cannot scale up because they are in fact wrong for the *form* or idiom that would enable satisfactory justifications for action to emerge—the "mineness" of the act and its reference to the will of other only becomes intelligible within a logically prior "us-ness" or "mindedness" (as Jonathan Lear puts it) or "common sense" (as Arendt).

Hegel described this as early as in his first *Philosophy of Spirit* as an "aether which has absorbed all the single consciousnesses within itself, *the absolute, simple, living, unique substance*" (ES §242). If Hegel does himself no rhetorical favors here by speaking of a quasi-numinous "aether," I think the analogy to language comes to the rescue: just as language is a reflective, norm-sensitive practice willed into being by no one in particular yet informing all who share in it, and just as language is nothing other than the history of its own development, a "masterpiece of the human spirit" (as Herder puts it¹⁶)—accruing content only through continuous exploration and extension of meanings internal to itself—so is the substance of ethical life the kind of normative form that, by belonging to no one in particular, informs each to all. That is, each citizen is an *instance* bearing witness to the form rather than a self-standing, autonomous source for it. Both language and spirit are works in progress, the development of which *itself* constitutes their basis and substantial content.¹⁷ Their retrospective, collective significance is in this sense a condition for their being a living medium.

The analogy to language is also apt in that highlights another tacit assumption of Hegel's account: we take languages to be complete unto themselves because we understand them as expressions of a world unto itself. I mean that—while languages are not isometric with respect to each other, nor do they contain all the same terms—it would be suspicious if we discovered a language that could not predicate, or had no terms of evaluation, or was in some other way radically and incorrigibly incommensurable with other languages: we might reasonably doubt whether its speakers could be human beings at all. Just so, Hegel's basic assumption about the "substance" of ethical life is not only that it is coherent and self-contained, but that it is a spiritual language for sustaining, shaping, and embodying human beings' highest practical aims: one could no more have a state comprised of merely self-interested agents than one could have a language that lacked a word for God or gods. It is the *kind* of normative idiom within which one could express freedom's aims, a

collective project that, however partially or unevenly, can both interpret all such aims within itself and can bear the weight of collectively meaning them as unconditional (as divinely sanctioned, say— in other words, as meaning something more than we have meant and therefore as being part of a larger destiny). Hegel thus describes the state as a “hieroglyph of reason which becomes manifest in actuality” (PR §279A): that is, a symbolic form that may need interpreting to become intelligible, but that can and must bear reading as a viable expression of Spirit’s script.

The conclusion that collective action, properly described, relies on an appeal to some background complex of practical rapports that, as irreducible to our individual endorsement of them, should be regarded as an emergent order of reason is perhaps palatable and familiar enough. Collective agency is qualitatively distinct from any particular motive or act; it is therefore a form with a creative relationship to our acts—at once constraining them as their idiom and enabling their dynamic transformations.¹⁸ Yet one might assent so far without conceding that such agency is a living agent, an *organism*, in any but a loosely metaphorical sense. Smith’s invisible hand, Darwin’s evolution, Wittgenstein’s forms of life, and Foucault’s “power” each serve as shorthand for emergent processes irreducible to the express intentions of their participants; but we do not think of these processes as living agents. So too, while we are comfortable saying that a culture is “vital” or “vibrant” (and “culture” itself is a term denoting natural growth) or that a language is “living,” we do not invest these with real life. What then is at stake in Hegel’s insistence that the state is, more than a system of associated language games, a living *agent* or *organism*?

There at least three features of Hegel’s account that deserve notice in this connection.

- 1 It matters that the ethical life of the state be a *given*, coherent, and autonomous whole, as I’ve already noted in comparison to language. The spirit of a nation must both “permeate all relations within it” and cannot be “simply made” (PR §274A)—it embodies an ambient totality of attitudes not portable elsewhere. The operative principle is itself, I think, twofold: that we can speak of one form filiating the practice of the mundane to a figurative conception of what is transcendent or unconditionally significant, and that such forms are not the sorts of norms that *could* be voluntarily adopted (because they are themselves the conditions under which an agent might think of herself as capable of making such a choice, and so on).¹⁹ The point is the Montesquieuian or Herderian one that states are animated by mores that are the basis with respect to which any possible project must be measured. That the body politic animates, inhabits, and sustains itself throughout our practices on the whole and as a whole, distinct and bounded from such others, already counts as organic “life” in this minimal sense.
- 2 More ambitiously, Hegel sees such a living whole as internally articulated and oriented toward formal functions that constitute its purpose. He refers to this aspect of organism as a “mode of necessity”—“i.e. the spirit

is a process within itself which is internally articulated, and which posits differences within itself though which it completes its cycle" (PR §267; cf. PR §279A)—comparing it explicitly to the way in which animals and plants are internally driven to articulate their organic functions (PR §263). This is a more difficult claim to assess, subjoined as it is to Hegel's programmatic ambition of showing that *all* spiritual activity is purposive.²⁰ Unlike the casual sense in which a language is "living" inasmuch as it continues to change (anyhow), Hegel maintains that Ethical Life is organic inasmuch as it is self-regulating and self-directed to specific modes of differentiation. It is in this connection that Kant had come closest to ascribing living agency to states: "the word **organization** has frequently been quite appropriately used...of the entire body politic. For in such a whole each member should certainly be not merely a means, but at the same time also an end, and, insofar as it contributes to the possibility of the whole, its position and function should also be determined by the idea of the whole" (KdU 5:375).²¹ Hegel agrees that the members of the state are "accidents," as I've said—not because they are inessential, but because they are only parts or members with respect to the whole they constitute and are constituted by.²² From this angle, the state is to be regarded as an organism on logical (rather than political) grounds. But where the point for Kant is that social institutions should or could be described in terms of their function—such that the state is that with respect to which all such social functions are mutually intelligible—for Hegel, this entails an additional claim about the archetypal state—such that we could say that a state without separation of powers or without an independent legislature is a defective or a less-than-actual state. So that where Kant does not see more than a regulative analogy in the application of "organization" to the state, Hegel thinks that it is an expression both of the state's actuality—in the sense that he sees the relative actualization of a concept in its instances as their "life" or "truth" ("Nothing *lives* which is not in some way Idea," PR §1A)²³—and of the state's motive urge to express itself as itself.

This too can be resolved into three less fanciful statements: that states exercise different powers and functions, that it is possible to identify what these are and should be (such that we could ask how they are exercised in different regimes), and that states are spiritual ends reciprocally determining and determined by their constituent functions. The state as an organism is "the development of the Idea in its differences" and "it is in the nature of an organism that all its parts must perish if they do not achieve identity" (PR §269A). Here, as elsewhere, the foil is the view that states are held together by force (PR §268A) or are agglutinations of institutions. The key is again Hegel's Humpty Dumpty criticism of liberalism: that it cannot account for the binding *tertium quid* through which its parts communicate, and that any candidate for such an overarching form cannot itself be another institution—and

so must be a shared, working theory of what is unconditionally right. The constitution is “a system of mediation” (PR §302A). The state is the life of the parties.

- 3 The third feature that Hegel ascribes to the state as an organism is that it be self-conscious or aware of itself as such. “Spirit is actual only as that which it knows itself to be...[so that] the constitution of a specific nation will in general depend on the nature and development of its self-consciousness; it is in this self-consciousness that its subjective freedom and hence also the actuality of the constitution lie” (PR §274). Unlike squids or orange trees, spiritual entities are only alive by virtue of being espoused by the agents constituting them—that is precisely what makes spiritual entities *more* alive (that is, less finite) than any biological organism could be. It is accordingly a condition of the state’s realization that it be able to know itself as such, to bring itself to awareness.

Yet it is not obvious what the state’s “self-consciousness” consists in, or where it resides, or what conditions govern or specify it. (If our state suddenly ceased to meet this condition, how would we know?) As this notion is introduced in PR §274, it sounds like a nebulous sense of belonging—the general perception that a set of customs or sensibilities that “permeate” all relations within the state, say. Another possibility with initial plausibility is that Hegel specifically locates it in the political constitution (PR §269), which is the topic that elicits the most extended thematic discussion of organicism in the text. But neither of these possible loci can bear the full weight of the judgment that the state is a “*self-knowing* ethical actuality” that “must become distinct from that of authority and faith” (PR §270), nor adequate to the sublime status that Hegel frequently ascribes to the state as an “image of eternal reason,” as “the world that spirit has created for itself,” an “earthly divinity” (PR §272) that is “divine and enduring” (PR §273), and so on. Hegel’s description of the state here rhymes with the status he accords to art or religion as modes of representation that can sustain and express our highest intuitions. But where and how do states realize that self-conscious status?

We are perhaps getting warmer by looking to patriotism, which Hegel describes as the habitual disposition of trust subtending ordinary life that “my substantial and particular interest is preserved and contained in the interest and end [of the state]” — the sense that, in other words, the state is both the basis and the end of my pursuits, such that “in my consciousness of this, I am free” (PR §268). It is an appealing characterization; Hegel makes sure to distinguish it from a martial view of patriotism as only relevant to heroic sacrifices. Even so, it is not clear in this section what it would mean to exercise it: Hegel’s examples in the addition refer to a volitional second nature that shapes our acts precisely despite our discursive criticisms or awareness of it; he adds that a citizen who walks the streets in safety will scarcely give a second thought to the institutions that make that possible. Patriotism is, under this

description, rather a condition of unspoken identification than the expression of a practice within which the state could come to full consciousness of itself as such.²⁴

Whereas the discussion of the “organic totality” of the state comes to a head in the discussion of the internal sovereignty of the state (PR §§278–9), the only context that elicits the “for itself” consciousness of the state as a rational organism is, for these reasons, the state’s relation or contrast to other such organisms—that is, a view of one’s state as a species belonging to an international or historical genus: it is in “a situation of crisis” that the idealism governing the organism “attains its distinct actuality” (PR §278); “this negative relation [of one state to another] is the state’s *own* highest moment—its actual infinity as the ideality of everything finite within it” (PR §323); “the state is an individual, and negation is an essential component of individuality” (PR §324A). In other words: the state is only fully conscious of itself as a whole within the latent or overt possibility of existential internal crisis or war with other states. It is in the awareness of the possibility and the periodic demand for sacrifice from its citizens that the state can continually regenerate the “unity of the body,” which tends toward entropy in peace (PR §324).

While it is here that Hegel roundly dismisses Kant’s internationalism and perpetual peace, his point is hardly to issue a Schmittian blank check on antagonism. War can, Hegel thinks, vindicate world-historical principles, though only in qualified cases—and even then it is not obvious how those could serve as a basis for a state’s decision to declare war.²⁵ The point is, rather, the logical one that if the state is the unit of binding, unconditioned allegiance, it necessarily follows that “negation is an essential component of individuality” (PR §324A; cf. EL §92). If it is internal to the notion of any identity to be constituted by opposition to relevant difference, then the identity of a spiritual entity can only be fully elicited through (and so constituted by) awareness of its vulnerability to or conflict with another such organism. War renders the state’s tacit grounds for unity explicit.

But Hegel’s position also paradoxically rests on the presence of a spiritual order higher than the state. All kinds of nationalism of course assume a comparison to other states: to be *this* state conscious of itself, I must think of my state as a member of a species or genus. But because and to the extent that Hegel also sees the state as expressing an end that is higher than itself, its sacred status as an individual state also entails reference to history’s “court of judgment” (PR §341) or “the march of God in the world” (PR §258). It is therefore only possible to embody my own state’s consciousness absolutely through my recognition of its relativity. War is, in this sense, the practical demonstration of what is theoretically available to the owl’s eye view of world history: the awareness of the partiality of one’s commitments as both necessarily partial and as belonging to a wider theater.

This theater—the notion that humanity is a whole—has itself two aspects, a national and a historical one. The first stems from the Herderian point that each *Volk* has a distinctive “natural principle” that renders it geographically

and anthropologically unique (PR §346–7). These differences must nonetheless be more than contingent for states to be spiritual organisms; Hegel implies that nations are irreducibly heterogeneous in the sense that no one of them can claim total identification with Spirit as such. The second point is that nations play variable roles in history, and that Spirit as such makes up a narrative whole, within which context nations may temporarily acquire “epoch-making” significance when their particular genius is called for (PR §347). That Spirit’s contemporary vehicle of expression should happen to be the Germanic peoples in Hegel’s view sounds all too fortuitous. The fact remains, nonetheless, that the purposive deed of Spirit as a whole is not vindicating any particular nation as superior, but realizing itself as what it is—namely, actually free. In sum, the thought that nations are organic and discrete units, laws unto themselves with a life of their own, is itself logically dependent on (and required by) a conception of the universal undertaking to which they belong. Nations are only organic wholes because they are Spirit’s agents, but the ultimate part they play is only ever philosophical (that is: retrospective) in the sense that it is not available to the self-understanding of each nation as such. The justification for the state as an organism cannot therefore be fully contained within the self-awareness of the state itself, which is only ever partial.

Now, if it is a condition of organic unity that the state *must* be aware of itself as a rational form, and if it is also the case that the full justification of that unity *cannot* become explicit to it, we might ask why we should trouble ourselves with the notion at all. That the state must and cannot become aware of itself in order to be whole sounds like a case of intrinsic self-deceit—a noble lie that cannot sustain consciousness of its content. But it is of a piece with an operative principle of Hegel’s dialectical method throughout his system, namely, that the “truth” of certain practices or modes of consciousness cannot be realized within the form of awareness within which they initially present themselves. (Such that, e.g., the truth of the struggle for recognition is mutual acknowledgment, a conclusion that the master and bondsman must not be aware of in order to be able to really find out that it is unattainable within the terms in which they are pursuing it.) We thus require a more detailed view of this conflict between “must” and “cannot” in order to bring the notion of organic unity into focus, especially inasmuch as the clash between these registers suggests the problem of the extent to which Hegel’s account is descriptive or normative—whether, that is, the notion of organic unity licenses political activism of some ominous sort, or whether it is just an anodyne test of political status. Organic unity in fact offers, I would suggest, answers to two different overlain questions, corresponding to the Hegelian “for” and “in” itself.

The first question is why it matters that citizens think of themselves as belonging to a political organism at all, why the notion should describe what happens to us inside-out or “for ourselves,” or what the notion *does* for us. A partial answer is implicit in the foregoing: that spiritual projects only exist

inasmuch as we care to devote our attention and life to them. (Science fiction novels, Islam, and the United States are three such projects; opera, Mithraism, and the Babylonian Empire three others.) But this reason is under-specified; it does not get us to the need for organic unity in particular, for which we need to tread one step further. As is well known, one of Hegel's longest standing projects—a thread connecting his writings from the 1790s to the *Philosophy of Right*—is conjugating the ethical unity evinced by the Greek polis with the fully developed Christian subjectivity. The driving thought is that freedom cannot be made fully intelligible except in relation to forms of Spirit, the history of which is a working out of such forms toward the fullest realization of its purpose. But while the general shape of such a project is indeed the Romantic wedding of Hellenism with post-Christian modernity, what emerges as the single greatest contemporary threat to this synthesis—the stance most resembling it and therefore dialectically farthest from it—is Romantic individualism, a moral stance that Hegel sees as caustic to the possibility of a coherent view of ethical agency. It is this particular concern that I think motivates the description of the state as organic, that is, as a form to withstand the challenge that such individualism presents. The organic state is an antidote to this perverse form of subjectivity.

Hegel characterizes this “subjectivity which knows itself as absolute” (PR §140A) as a position that exempts itself from common norms, even as it identifies the grounds of the good with its own immediate conviction. As parasitic on modern autonomy—the result of “a highly cultivated age in which faith has lost its seriousness” (PR §140A)—it is not the sort of pathology that could be eradicated. Its peculiar threat stems from the fact that the very refusal to acknowledge the authority of collective norms of action could *itself* come to be a widespread collective norm—self-opacity and caprice passing themselves off as autonomy. It is, in this sense, a sort of anti-norm, a norm cloaked in the appeal of refusing to avow itself as normal. (In the *Phenomenology*, this issue plays out the conflict between the “beautiful soul” and the “hard heart.”²⁶) Hegel analyzes it alternately as a form of self-deceit and self-indulgence: it “implies that objective goodness is merely something constructed by my conviction, sustained by me alone, and that I, as lord and master, can make it come and go [as I please]” (PR §140). It is, as such, downstream from the liberal equation of freedom with license. But as the assumption of an arbitrariness that has “no yardstick within itself” (PR §17), it creates the impasse (or family of impasses) that motivates the transition from Morality to Ethical Life.

It is not always easy to know how seriously to take this threat—is Hegel not exaggerating the social significance of Schlegel, Fries, and his other pet *bêtes noires*? One might also reckon that modern ethical life is unlikely ever to achieve the unity of ancient political life, that the aim to sublimate subjectivity into an organic whole is the wrong thing to want. Hegel will indeed agree that “the democratic political shape of the Greek state is beautiful, not deep, as the modern time demands.”²⁷ But he is also expressing perhaps for

the first time the generalized bourgeois pathology that Kierkegaard will call the “aesthetic,” the glamor of which position consists in publicly performing its self-absolution from the burden of public duty. Hegel was dead right to note it. Authenticity remains one of our only widely shared ethical norms; its pathologies abide. And so inasmuch as Hegel diagnoses the central fault within modern political life to lie between autonomy and its public expressions, the organic state therefore aims to project the most coherent figure of their possible reconciliation. I mean that it is because and to the extent that modern subjectivity makes steeper rational demands on ethical life that the state must receive a correspondingly more unified account. The organic state is the “myth” that harmonizes our demand for reasons with the ethical actuality that could satisfy them—a point that, in turn, helps account for why Hegel insists on organic unity rather more (though not exclusively: cf. PR §200) in his discussion of the political constitution than in his discussion of civil society, where one might have expected it.²⁸ The state must be realized as organic precisely because it is not straightforwardly natural.

It is this connection to the demands of modern subjectivity that makes sense of Hegel’s extraordinary emphasis on education throughout the *Philosophy of Right* as “the art of making human beings ethical” (PR §151A). Education is for the sake of acculturation into the state’s common duties; it is one of its ends to create good citizens (PR §239). Unlike Fichte, however, Hegel does not stress the specifically national purpose of education, but the common form that should prevail over idiosyncrasies: “by educated people, we may understand in the first place those who do everything as others do it and who do not flaunt their particular characteristics, whereas it is precisely these characteristics which the uneducated display” (PR §187). In other words, Hegel is less preoccupied with the ideal state—(let alone German-) curriculum and more with the fact that education should concentrate on the “formal *universality of knowledge and volition*” (PR §187). His emphasis is on the state’s form as a universal-particular (so to speak) rather than on its national apotheosis; it is directed against subjectivism rather than cosmopolitanism. It is along these lines that the *Philosophy of Right* itself functions as an instrument of modern education, satisfying by science the state’s demand for deeper insight (PR 18).

Yet if this is right, then Hegel is also proposing an education that must outstrip or complicate the thought that one’s state is itself the ultimate horizon of significance, as I’ve suggested. This returns us to the question of what, if anything, is philosophically at stake in his stressing the organic life of states—the state’s status “in itself,” beyond its practical or pedagogical significance. The full answer likely depends on our responses to Hegel’s particular account of it: is the notion of the state as rational organism dangerous or false? And if false, what are other candidates for describing the unity of national “communities”? What are the organic state’s essential features, and by what principle might we distinguish between rational form and mere rationalization? All of these questions, as well as Hegel’s standing with respect to his own historical

circumstance, are of course vexed old chestnuts.²⁹ But the Pinkardian response helps us see just how these difficulties are connected, by clarifying the question to which Hegel's systematic holism is a solution. Hegel's description of the rational organism is not to be understood descriptively, as a state of affairs achieved, but as a paradigm of the kind of account that one would have to give in order to do justice to the political life of the modern state. It is, in this respect, neither elegiac nor apologist; rather, it provides the criterion we would need in order to understand the unity of our political life, or, as Hegel puts it, the test of what is rational. The organic state is critical theoretical *avant la lettre*—it offers a view of the best form that our commitment to the state would have to take for modern politics to be rational, to the extent that it stands a chance to be. And to the extent that does *not*, it is our only way of giving internal measure to the deviations. This kind of double vision, as Pinkard notes, is how Hegel understands the “amphibious” character of modern agency: we inhabit two practically heterogenous worlds, the wholeness of which can only be fully realized in the Idea of them.³⁰ The notion of organic unity is, for these reasons, our only real measure of a communal whole; it is a touchstone for what does not exist as such, yet need not in order to be actual. And the extent to which this seems to us a disappointing conclusion only corroborates the peculiar demands that we make on theory.

One might say that the notion of the political organism is (from a different angle) an aesthetic figure as much as a biological one, in the sense that it exhibits for us the concept of the state notionally saturated with its particular, the concept fully expressed in its actuality.³¹ I don't mean that the state is a work of art in the sense that it is utopian—Hegel is clear that the modern state is intrinsically subject to divorce, war, crime, and poverty. Nor do I mean that the state is a work of art in the sense of being a deliberately wrought artifact; Hegel explicitly denies that (PR §258A).³² But his denial is partly meant to criticize the presumptions of liberal universalism and partly to register the impossibility of returning to the kind of social homogeneity evinced by Greek cities states (which he *does* refer to as works of art).³³ I mean, rather, that the rational organism is a work of art in the sense that Hegel is offering the best measure with respect to which any modern state should be judged—one that meets the desideratum of satisfying the demands of modern subjectivity, while also coherently articulating the state as a living whole aware of itself as incomplete and in contrast to other such forms. The fact that Hegel tends to grossly exaggerate the unity of Greek *poleis*—insisting on the harmonious transparency of individuality to milieu in the “beautiful democracy” of Athens (PR §279A)—is not so much an empirical failure, as a suggestion of the overall paradigmatic project he has in his sights.³⁴ The “rational organism” of the modern state is the Athenian state raised to a higher power, an account making sense of a life in common whole—or a way of registering its absence.

The organism is whole, therefore, only “in itself” or “for us,” that is: for philosophy. It is for this reason that the state cannot become fully conscious

of its purposes as a state. It remains a partial mode of Spirit, incapable of fully embodying the rational principles that it approximates.³⁵ In this respect it is a necessarily incomplete mode of awareness—the organicism that makes sense of the state cannot itself be fully expressed within that mode. But this incompleteness is not a mark of a political failure, so much as the mark of its finitude. If it could become self-aware, then it would be in a different shape; its intrinsic finitude consists precisely in its incapacity to fully embody the truth of it. Koyré writes that the organic eras do not need philosophy; it is only when the political organism is no longer practically possible that philosophy can express the need for it in theory, as a vision of a whole in and for itself.³⁶ Yet Hegel is showing that this is only ever our situation in the modern state, the presence in theory of what's practically never been the case.

If we are today grown uneasy with talk of organic states, I think it stems from reasons that go beyond the destructive possibilities of nationalism. To name three: (1) if war is the expression of the state's struggle for recognition, existential conflict between nuclear states is either impossible or suicidal. In its stead have come a series of proxy wars—covert, distant, and unavowed—which are hardly what Hegel has in mind as the crucible of national unity. Covert violence has eroded civil habits of trust toward the state; while the elimination of war, in turn, also renders pointless violence more attractive to us as a means of escaping from the petty competition of civil society. (2) Bureaucratic rationalization and reason have come to seem poles asunder for us. Hegel does not explore the possibility that an institution might express *less* intelligence than the individuals comprising it, or the sense that a bureaucracy might become heteronomous to the needs of those who have it. The very conditions of rational legibility in Hegel have become technologies of oppression in Kafka, Foucault, Solzhenitsyn, and so on: the owl in the iron cage. (3) The dominant medium that Hegel's account is predicated on is printed literacy. This is just what it is for a state to be rational: each citizen should be able to access the law and the press as an extension of one's own agency (PR §§297, 315–20). The social imaginary of the nation assumes the printed word as the basis of education, the medium of debate, and the chief form of public opinion. But in a world of mechanical reproduction or digital communication, the idea of the nation is no longer simply reinforced or recreated by its dominant media. Our media are (or feel as if they should be) trans-political—such that even nationalism is now an international solidarity movement.

More than ever before we therefore inhabit a form of political life that is not adequate to its material conditions: the water and the land have only separated more starkly, further stranding us amphibians. But this speaks to Hegel's currency rather than to his obsolescence; we have never outpaced him in this conflict. We require a philosophical whole by which to measure all the ways in which we are at variance with ourselves. Yet this conflict or variance—the incomplete identification of theory with practice—is itself the mark of our amphibious nature. And it is only thus, precisely as amphibians, that, as Pinkard puts it, we (must, cannot) manage to “live on both sides of the lines.”³⁷

Notes

- 1 Cf., e.g., Pinkard (1994: 10–17, 2000: 209–19, 2017: 19–49).
- 2 Quoted at Pinkard (2012: 165).
- 3 See Berlin (1998: 364, 592); Abrams (1953: 171–3).
- 4 Schiller 1982: 35 (Letter 6).
- 5 For Marx and later Marxists, the phrase has both critical and utopian uses. See, e.g., Lukács (1971: 13, 239, 291), etc.
- 6 Wilson (2005: 121).
- 7 Bernstein (2003: 186).
- 8 See Williams (2004: 185–6).
- 9 For a fuller elaboration of Hegel’s position, see Smith (1991).
- 10 See Hegel’s remark about atomicity and “destructive” reflection in (PR §455).
- 11 Pinkard (2012: 147).
- 12 In Thompson (2004).
- 13 I acknowledge that I’m glossing over this distinction as painstakingly made in Quante (2004). I’m proceeding here in general agreement with Alznauer’s view that Hegel himself does not definitely divide internal from external conditions of moral attribution (for which see Alznauer 2015: 129ff.).
- 14 For a better description of what this means, see Alznauer (2021).
- 15 See, in addition to the passages in note 1 above, Pinkard (2012: 89–109).
- 16 Herder (2002: 139).
- 17 See again (ES §242).
- 18 For a helpful elaboration, see Rödl (2007: 180–5).
- 19 See Williams’ remark that beliefs “cannot intelligibly be changed at will” (Williams 2004: 80).
- 20 For a full spelling out of this thesis, see Ng (2020).
- 21 And cf. PP 8:344 (“Perpetual Peace”).
- 22 I’m grateful to Thomas Khurana for clarifying this point; see Khurana (2013).
- 23 See Alznauer’s description in Alznauer (2015: 27–60).
- 24 I don’t mean that such tacit patriotism is insignificant, only that it is logically dependent on and constituted by the possibility of utmost confrontation with other states. For better accounts of Hegel’s view of quotidian patriotism, see Moland (2011) and Moyar (2021).
- 25 See A 1062 and Barba-Kay (2017) for the full parameters of this issue.
- 26 The connection is helpfully spelled out in Pinkard (2002: 237–42).
- 27 Quoted by Pinkard (2012: 134).
- 28 Hegel had gone so far as to refer to civil society as the state’s “inorganic nature” in his early *Natural Law* essay (PW 146). I’m indebted to Thomas Khurana for this observation.
- 29 For helpful panoramas of these issues see Dale (2014) and Pippin (2008) (esp. 238–81).
- 30 Pinkard (2012: 174–83).
- 31 Hegel explicitly identifies his philosophical method with the way in which aesthetics overcomes the difference between content and form to exhibit higher wholeness: A 56.
- 32 It is in this sense that Jacob Burckhardt writes about the state as a work of art in the Italian Renaissance, as “a product of reflection,” though what *he* is emphasizing is of course a heightened sense of consciousness emerging in tandem with political modern theory and technique (Burckhardt 2002: 70).
- 33 LPH 229.
- 34 For a full discussion of Hegel’s political uses of art, see Gethmann-Sieft (2016). There is a closer connection than generally acknowledged between Hegel’s

understanding of Absolute Spirit and Schiller's view of the imagination's work (as an activity through which the ideal becomes actual), on which point see Pollock (2021).

35 A 99.

36 Koyré (2018).

37 Pinkard (2012: 176). I'm indebted to Amin Stambuli for helping me work through the *Philosophy of Right* with an eye to some of the matters of this essay, as I am to Robert Pippin, Robert Stern, Lydia Moland, and the others who responded to my paper at the virtual conference in honor of Terry Pinkard in October, 2021.

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Part 4

Right and World History



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15 Poetry and the Sense of History

Images, Narrative, and Justice in the *Philosophy of Right*

Lydia Moland

One of the earliest examples of recorded history, in Hegel's telling, is also one of the earliest examples of poetry. As such, Hegel thematizes it not in his sections on world history in the *Philosophy of Right* or in his capacious lectures on the philosophy of history. Instead, he recounts it in his lectures on the philosophy of art. It consists of a distich commemorating the Battle of Thermopylae, which reads: "Here four thousand from the Peloponnese fought against three myriads." Hegel comments as follows:

The report is left entirely simple: the dry information that 4,000 Peloponnesians fought a battle here against three myriads. But the interest lies in the preparation of an inscription to relate this event for contemporaries and posterity, purely for the sake of relating it, and so the expression becomes poetic, i.e. it is meant to be a '*poein*' [a 'making'] which leaves the story in its simplicity but intentionally gives special form to its description.

(Ä 974/TWA 15:241)

The unknown author, in other words, accomplishes a moment of history: a fact to be conveyed to posterity for no other reason than merely to have related it. But why does Hegel also call it poetic? And what can these simple lines tell us about the relation between poetry and history, or about either in particular?

We can begin to answer this question by looking at where in Hegel's system the two terms fall. In the case of history and poetry, they are located on either side of the transition from the concluding sections of Hegel's *Philosophy of Right* – namely, his considerations of world history – and the first part of Absolute Spirit, which is art. In other words, history is a transition from the political institutions that characterize Objective Spirit to the reflection on human activities that characterizes Absolute Spirit. Put even more simply: history tells a story. It is a narrative intentionally created to communicate from one human to imagined others. As such, it borders on a form of art. But there are important differences, and those differences can help us understand what history is for Hegel, and whether, as Terry Pinkard has asked in a

recent book, history makes sense. Among other things, what is striking about Pinkard's book, which has redefined scholarship on Hegel's philosophy of history as Pinkard has redefined essentially every Hegelian subfield, is Pinkard's challenge to think of Hegel's philosophy of history as showing how "the need to make sense of things leads to a conception of justice" that "transforms itself into a conception of the necessity of freedom" (Pinkard 2017: 44). How can the practice of doing history help us make sense of history, and so lead us to a conception of justice? And, to extend this question to the example of the ancient distich, how might poetry help?

In hopes of answering this question, I will first describe poetry's role in forming a nation, then how poetry and history diverge as nations transition into states and the poetic gives way to the prosaic. This chapter, then, asks a question about the *Philosophy of Right's* concluding passages on world history, but, in trying to determine how we ourselves can fulfill our ethical obligation to make history make sense in a way that actually promotes freedom and justice, I will turn to his lectures both on aesthetics and on history. After these investigations, I will return to asking what value the story Hegel tells about history has in our quest to make sense of our history.

15.1 The Poetic Origins of the *Volk als Staat*

The first place to look for the connection between poetry and history is in Hegel's definition of the kind of political entities that are historical actors. "The nation as a state [*das Volk als Staat*]," Hegel proclaims in the beginning of the *Philosophy of Right* (PR)'s section on international law, "is the spirit in its substantial rationality and immediate actuality, and is therefore the absolute power on *earth*" (PR §331). I have argued elsewhere that we do best to take Hegel's vocabulary here – *das Volk als Staat* – literally: not to translate the phrase in question "nation state" – a political term anachronous to Hegel's time – but to emphasize that this political power is a nation [*Volk*] considered as state [*Staat*] or, as Hegel's chronology will show, a nation that *has become* a state (Moland 2011: 77–8). I agree with several of Hegel's translators that *Volk* in this context is best translated "nation," as opposed to "people": a *Volk* so understood is a cultural group (as opposed to an ethnicity) that shares a history, language, traditions, and customs.¹ A *Volk* becomes a *Staat* when it codifies those customs into explicitly reflective components of a political system such as a constitution, representational bodies, or courts. A *Volk* becoming a *Staat* is one of the ways that Hegel envisions particularity being preserved at the universal level. The ways freedom has to be instantiated in institutions can be understood through the universal language of justice or rights, but they are filtered through a particular set of customs such that the Italian constitution is different in character from the German, the Finnish from the Greek, and so forth.

But how does a *Volk* come into being in the first place? One answer is through developing an idea of itself. And here is a link to poetry. The first

step in understanding the connection between poetry and a *Volk* is to understand the specific nature of poetry's material. Hegel gives this explanation in Part III of the lectures on art in which he is concerned less with how particular cultures express their worldviews in art and more with exploring how each individual art – architecture, sculpture, painting, music, and poetry – contributes to our understanding of the Idea. As part of that endeavor, he articulates what is sculptural about sculptural, musical about music, and so forth, identifying the paradigmatic materials, subject matter, and instances of each individual art. Sculpture's material can be marble or wood; painting's material is color; music's material is sound. We might assume that poetry's material would be words, but Hegel sees it differently. Poetry's material, he instead claims, “is the *inner* imagination [*innere Vorstellen*] and intuition [*Anschauung*] itself” (Ä 973/TWA 15:240).² This description reflects Hegel's assertion that poetry is a synthesis of the visual essence of painting and the temporal essence of music. When, in Hegel's Homeric example, I read the phrase “When in the dawn Aurora rises with rosy fingers,” the succession of words in time produces an image of a sunrise in my mind, making me aware of the synthetic activity of my mind (GW 28:256). Poetry is, of course, unlike painting in that this image exists only in the mind: it appears, Hegel says, “to the inner life, to *spiritual* vision” (Ä 961/TWA 15:226). But Hegel's point remains: just as music works with sound and sculpture with marble, poetry is the art that works with inner images.

In doing so, Hegel claims, poetry also facilitates a dialectic of self-creation and self-discovery. Early poets, he claims, did not “at all take something already known independently in its universality and merely express it in imagery.” Instead, in forming words into images and becoming aware of these images, the individual becomes aware of her own mind and so of herself: the consciousness of the self forming these images is, in part, what makes the self possible. It would be too much to say that there is no self before poetry, but the sense in which poetry facilitates the emergence of the self in Hegel's view is also clear. Perhaps because of this near-magical power, early poetry appears to be “a miracle wrought by a gift and a force not yet made familiar but, to men's amazement, freely unfolding for the first time what lay deeply enclosed within their own hearts” (Ä 1008–09/TWA 15:241).

But poetry is not only essential to *individual* self-consciousness. The poet can also, by conjuring images for others, give them a sense of their own shared identity, or, more specifically, their membership in a nation. There were, in a sense, then, also no nations before poetry: no way to have an image of oneself as part of a group, or of the group itself, before that group was articulated in shared images. Before poetry, Hegel writes, there was “neither any fluency of ideas nor manifold and varied turns of expression” to make people aware of their shared norms and practices. But when a poet prompts the formation of shared images in the minds of a group of people, “at that time the poet was the first as it were to open the lips of a nation, to bring ideas into words, and *by this means* to help the nation *have ideas*” (Ä 1009/TWA 15:286).

The process of national formation differs from that of individual formation, of course, insofar as it is diffused over time and space: not every member of a nation hears the poetry, much less at the same time. Nevertheless: in facilitating these ideas, the poet lays the foundation both for the rich cultural life that Hegel thinks is essential to concrete human freedom but also for the transition of a *Volk* into a *Staat* with a constitution, legal system, and so forth that reflects this original understanding of a nation's collective self-consciousness.

Poetry's role in a nation's formation is particularly clear in the historic period when poets composed epic poetry. At this point, the nation's norms must "not yet [be] developed into the form of universal institutions." There must be "a sense of justice and equity, together with custom and the general mind and character," but that sense should not yet be a "universally valid and independently justified form" (Ä 1052/TWA 15:340). Genuine epic poetry is produced, in other words, when a nation is emerging from the phase in which its customs dictate its behavior but before it objectifies those customs into institutions.³

But the creative potential of poetry is also not confined to these earliest moments of national formation. Goethe and Schiller, Hegel also claims, "created the German nation [*Volk*]. There," he continues, "we find a tone in which . . . others can carry on" (PK 322). Even at the relatively late stage at which the disparate German states were forging a combined political identity, poets who were able to invigorate a language and unite people in a sense of cultural identity were instrumental in achieving the emergence of a united group. Poetry, then, enables individuals to form mental images and so become aware of themselves as individuals; it can do the same for nations. Hegel thus anticipates, in an almost literal way, Benedict Anderson's famous description of a nation as an imagined community. (Anderson 1991) Poetry enables us to have an image of the community before our minds; in doing so, the community comes into being as a nation.

The second connection between poetry and the *Volk* that becomes a *Staat* is through poetry's use of one of the key factors that unites people culturally, namely language. Since no language speaker can exist in isolation, verbal communication facilitates the emergence of groups that then take on other cultural similarities. Insofar as poetry calls attention to words, their usage, and their evolution, it calls attention to the shared development of traditions and shared experience. Just as the Greek constitution will differ in spirit from the Finnish and the Italian from the German, the poetry of each nation will differ "in spirit, feeling, outlook, expression, etc." (Ä 977/TWA 15:245). I claimed above that in privileging the *Volk als Staat*, Hegel is articulating the need for an interpenetration of the universality of the state with the cultural essence of a nation; poetry, too, takes something universal, namely language, but shows that it cannot exist in strict universality but can only be filtered through particularity. All poetry "embraces the entire spirit of mankind" and has "universal human nature and art" as its content (Ä 977–8/TWA 15:245–6). But poetry is also particular, formed by the experience and traditions of a specific group of humans.

A final link between poetry and the nation is the fact that poetry is “more capable than any other art of completely unfolding the totality of an event, a successive series and the changes of the heart’s movements, passions, ideas, and the *complete course of action*” (Ä 960/TWA 15:224). Painting and sculpture can of course evoke battles or depict national heroes; symbols of national triumph can be carved into architecture; national hymns allow music to recall and intensify national feeling.⁴ But poetry’s use of language can make the motivations and decisions that lead to a series of events evident in a way that no other art form can. Since Hegel does not have an ethnic understanding of what nations are, understanding a nation means understanding its actions, and poetry is best suited among the arts to do that.

Poetry, then, is instrumental in the formation of nations in several key ways. It combines words into spiritual images that allow a group of humans to form a shared self-conception. It takes place in one of the things that constitute a culture, namely its language. Insofar as a nation is defined by its deeds, poetry allows the events that constitute a nation to be narrated. Poetry thus enables the dynamic of self-conceptualization and self-determination necessary for a *Volk* to think of itself as a united entity. It is, in short, one of the factors that enables the foundation of the *Volk* that becomes a *Staat*.

It is worth pausing briefly to remember that Hegel’s appreciation for epic poets’ role in the establishment of nations, and for Goethe and Schiller’s more recent contributions to the formation of a German nation in particular, did not extend to approval of a project much on the minds of many Germans of his generation: namely, the creation of a new national epic. In Hegel’s view, the time for epics is over: the modern world requires a more reflective, critical stance towards one’s nation than epics allowed. Hegel repeatedly argued against a modern production of the *Nibelungenlied*, for instance: “for our national consciousness [the affairs of the Nibelungs] are simply a past history, swept clean away with a broom,” he writes. “To propose to make things of that sort into something national [*etwas Nationalem*] for us or even into the Book of the German people [*Völksbuche*] has been the most trivial and shallow notion” (Ä 1057/TWA 15:347). As to the nationalist fervor that Hegel felt building around him, Terry Pinkard has located a priceless and pithy characterization of Hegel’s reaction: the obsession with *Deutschtum*, Hegel quips, was nothing more than *Deutschdumm* (Pinkard 2000: 311).

15.2 From History as Poetry to Historiography as Prose

Once a *Volk* emerges from its early, poetic stages, however, how does it tell its story? How does it articulate its place in world history, or – just as importantly – how do others articulate that place for it? Surely the original distich is not enough. And indeed, it turns out that when it comes to writing a nation’s history, things get more complicated. To understand this, it is necessary to look at the way Hegel distinguishes poetry from prose.

Hegel asserts that poetry – including, apparently, the very early distich that functioned also as an early history – preceded “skillfully elaborated” prose. To return to the distich: poetry originated when “man undertook to express *himself*... When once, in the midst of his practical activity and need, man proceeds to collect his thoughts and communicate himself to others, then he immediately produces an expression, a touch of poetry” (Ä 973–4/TWA 15:240). So the words “Here four thousand from the Peloponnese fought against three myriads” convert the “dry” facts of the battle into a moment of self-reflection that Hegel thinks both facilitates the author’s self-consciousness and projects the possibility of creating an image in a reader’s mind into the future. The author is, as it were, translating a happening into an event, showing a reflective human attempting to create an image in the minds of humans he will never meet. This, apparently, is why Hegel thinks this short sequence of words counts as a kind of creation: when the author related the incident purely for the purpose of communicating this event, “the expression becomes poetic, i.e. it is meant to be a ‘*poein*’ [a ‘making’] which leaves the story in its simplicity but intentionally gives special form to its description” (Ä 974/TWA 15:241). In this sense, all art is “poetic” for Hegel: the response of a creative instinct linked to humans’ understanding of themselves as self-determining.

But language soon took a prosaic turn away from creative acts and language became mere a tool for efficient communication. Eventually, as Hegel describes in the *Philosophy of Spirit*, words no longer evoke images of the objects they correspond to (ES §459). If I am told “the sun rises in the east,” I can understand the fact being communicated without producing an internal image of the sunrise. Words become simple signs, separate from the images they were invented to evoke. This independence from image allows humans to construct arguments, articulate causes and effects, and become efficient and factual. Language loses its magical power; poetry’s prosaic descendants are impoverished compared to its original richness and vigor.

It is important to note that what goes lost in this transition is not only beauty but also truth. The true, as Hegel sees it, is the whole: the mutually creating, self-determining identity of identity and division that Hegel calls the Idea. Understanding this truth means recognizing the interconnected essence of that whole (PhG ¶20). The prosaic mind, by contrast, “has nothing to do with an inner connection, with the essence of things, with reasons, causes, aims, etc., but is content to take what is and happens as just this bare individual thing or event.” Once humans focus on efficiency and causality, they “separate the particular existent from the universal law... merely relating them together” (Ä 975/TWA 15:242–3). “Merely relating” parts is one of the ways Hegel frequently characterizes failed attempts at conceptualizing the true that is the whole. As long as the connection is only superficial, as opposed to revealing an organic, self-defining whole, there can be no true unity.

As an illustration of the difference, Hegel uses a historical example. If we, as modern humans accustomed to prose, are told that “Alexander conquered the Kingdom of Persia,” it is a

simple abstraction without any image and so our eyes are not led to see anything of the look *and reality* of Alexander the Great's achievement. The same is true of everything expressed in this way; we understand it, but it remains pale and grey... vague and abstract.

A poetic description, by contrast, "assimilates the whole wealth of real appearance and can unite it into an original whole along with the *inner meaning and essence of what is portrayed*" (Ä 1003/TWA 15:278). By producing this "spiritual vision," poetry achieves a higher truth than prose, allowing us a more unified sense of what it depicts instead of connecting it simply as a means to an end.

Part of Hegel's aim in his lectures on aesthetics is to detail how poetry can rescue itself from prose. Poetry must "diverge from that ordinary speech and be made something fresh, elevated, and *spiritual*" (Ä 1006, 977, 1009/TWA 15:282, 245, 286–7). It can do this by making its content figurative (*bildlich*): prompting us again to form a mental image that corresponds to something so familiar that it has become prosaic, perhaps through an unexpected metaphor or juxtaposition of vocabulary (Ä 898/TWA 15:144). It might, for instance, compare history to an arc that bends towards justice or, to take a more recent example, encourage us to "lay down our arms so we can reach out our arms to one another," asserting that we "seek harm to none and harmony for all" (Gorman 2021). Poetry that is able to augment our understanding of something we have otherwise come to treat prosaically "adds to the understanding of the object a vision of it, or rather it repudiates bare abstract understanding and substitutes the *real specific character of the thing*" (Ä 1002/TWA 15:277).

With careful attention and creativity, then, poetry can indeed be rescued from the tyranny of prose. But despite the fact that Hegel advocates for poetry to continue because of its value in disclosing truth, he limits what can become poetry. Among the things that Hegel thinks can resemble poetry but are not, in fact, poetic is historiography (*Geschichtsschreibung*).

Historiography, he elaborates, "leaves room for *one* aspect of artistic activity," namely the creating of images of individuals or events in our minds. History is full of intriguing events and inspiring individuals who engage in "vital activity, pursue great ends, or see their undertakings come to disaster." The historian's task is not only to recount dry, untrue cause and effect relations: it is not, in short, just the facts: "however much trouble the historian must take in recounting 'things as they actually happened,'" Hegel writes, "he must absorb in his mind this varied material of events and characters and recreate it and present it out of his own genius for our minds to grasp" (Ä 986/TWA 15:257). The historian must make thousands of decisions regarding how to "arrange and organize his material" in order to create compelling characters and vivid events. When a historian does this successfully, the parallels to poetry are clear. Just as "When in the dawn Aurora rises with rosy fingers" brings to our minds a sunrise, a historian with a touch of genius can make a "clear picture of the nation, the period, the external circumstances and the

subjective greatness or weakness of the individual actors” “leap to our view.” Successful historians will also show that “out of all the parts there proceeds their connection with the inner historical significance of a people, and event, etc.,” in other words, they will make the history suggest the unity that is at the heart of Hegel’s vision. “In this sense,” Hegel continues, “we speak even now of the ‘art’ of Herodotus, Thucydides, Xenophon [and] Tacitus.” In such cases, history can have a “share of art” (Ä 986–7/TWA 15:256–7).

But Hegel ultimately concludes that history cannot recover from its separation from poetry. Even “these finest products of historiography do not belong to the sphere of free art; indeed even if we wanted to add to them an external poetic treatment of diction, versification, etc., no poetry would result.” Alexander’s conquering of Persia, even if it were recounted in a meter and rhyme scheme that renewed our relationship to our language and brought images of battles and heroism to our minds, would remain prose. This is because “it is not only the manner in which history is written, but the nature of its subject-matter which makes it prosaic” (Ä 987/TWA 15:258). There are three aspects to this claim.

The first concerns the point at which Hegel thinks history, narrowly understood, started; namely, where the heroic ends. It begins when the “prose of life” is presented in the “actual state of affairs,” namely when nations begin to adopt constitutions, form legal systems, or introduce institutions for political representation. Hegel makes this point by contrasting Homer to Herodotus: “So, for example, Herodotus describes not the expedition of the Greeks against Troy” – he does not, in short, supplement historical fact by narrating the exploits of the gods: instead he quite simply describes “the Persian Wars.” Hegel compares this historical discipline to “Indians, Orientals in general indeed, except perhaps the Chinese only, [who] have not prosaic sense enough to give us an actual historical narrative because the runoff into either purely religious or else fantastic interpretations and transformations of fact:” a reductive dismissal that I will return to below. To achieve his factual recounting of armed conflict, Herodotus “has struggled in many ways with laborious research and careful reflection to arrive at a precise knowledge of the events he intends to relate.” The historian’s struggle, Hegel affirms, is different than the poet’s, requiring “laborious research” and “precise knowledge” of events (Ä 987/TWA 15:258).

This nascent “prose of life” is not, however, only to be found in the historian’s “actual state of affairs” but also in history’s “artistic treatment and presentation.” Slowly, through the course of centuries, art itself shifts from depicting the heroic or the divine and instead comes to depict the human everyday – witness, as Hegel likes to point out, Dutch genre painting in which a pitcher surrounded by food scraps can be the subject of exquisite art. Here poets are no longer creating history or calling a nation into existence by imagining meddlesome gods and heroes with superhuman powers. They are instead depicting humans as the locus of meaning despite all their petty concerns and, as it were, their mundane adventures—a phenomenon evident,

as Hegel describes, in both Laurence Sterne's *Tristram Shandy* and Goethe's *Wilhelm Meisters Lehrjahre*.⁵

So what, in contrast to the poetic account of a heroic age, does an account of "the historical period of a nation" look like? What characterizes the end of poetic history and the beginning of historiography? History, Hegel stipulates, "requires in the first place a community, whether religious or political, with laws, institutions, etc., laid down on their own account already valid, or to be made valid, as universal laws" (Ä 987/TWA 15:258). In order, in other words, for history to begin, the nation must have become, or be on its way to becoming, a state. History will, then, give an account of the way such institutions were formed, and what battles or negotiations were necessary for it to choose a constitution or settle on a legal system. Such accounts will, of necessity, happen in prose.

The second way in which historiography's subject matter is prosaic has to do with the "actions and changes necessary for maintaining and altering" this community now understood as a state. Change in communities requires individuals "to decide on them and carry them out." The people who prompt these changes are then judged by whether they succeed in achieving the "common purpose implicit in the inner nature of the contemporary situation;" they are great if they prove equal to the challenge, small if they do not, and bad if "instead of fighting for the needs of the hour, they make their own individual interest prevail." But in all of these cases, Hegel says, "what we indicated above in our part I as a requirement for a genuinely poetic subject-matter and world-situation is absent." Hegel here references the sections in the first part of his lectures on aesthetics in which he enumerates what kind of historical backdrop, conflict, and action will allow a drama to succeed. The best dramas, he concludes, depict conflicts that come about through human actions and fully-developed protagonists whose many-faceted traits are concentrated into united characters. These characters are most convincing when they act from their own natures, transfixing us with their unity of character and purpose. Everything, in such cases, is united in a single gesture. A drama that achieves this unity is "enjoyable by all ages and nations" and can "disclose to us the higher interest of our spirit and will, what is in itself human and powerful, the true depths of the heart" (Ä 279/TWA 15:362).

But for the citizen of a state, such a coalescence of factors is essentially impossible. "Even in the case of great men, the substantive end to which they devote themselves is more or less given, prescribed, and compulsory," Hegel tells us. This means that no unity of individuality with the universal, no single gesture of self-determining action, is possible. Even if the characters choose their own aims, "the subject-matter of history is not the freedom or unfreedom of their mind and heart, their individual living attitude, but the end that is pursued, and its effect on the actual world confronting them there, independent of themselves." It is also true, Hegel tells us, that "in historical situations the play of chance is revealed:" historical situations include "far more things that are extraordinary and eccentric than those miracles of

poetry which must always keep within the limits of what is universally valid" (Ä 988/ TWA 15:259–60). History's contingency and eccentricity, in short, make creating an aesthetic unity difficult.

Historical characters also pay a price for being change agents in a state: they can also no longer be poetic: "[T]here is introduced here again into the execution of historical actions, in distinction from what is strictly poetic, the prosaic cleavage between the individual's own personality and that consciousness of laws, principles, maxims, etc." It is not only that the general good prescribes our aims, but the realization of these aims

requires many arrangements and preparations, and the external means for these are vast and dependent on and related to one another in many ways, and they have to be trimmed and used on purpose for the intended undertaking with intelligence, skill, and prosaic supervision.

(Ä 988/TWA 15:260)

However necessary it is to achieve concrete freedom in the state, bureaucracy is, in short, simply not poetic.

So whereas poetry by itself can recover from the tyranny of prose in the ways illustrated above, history cannot, and should not, recover its poetic foundations. Hegel's warning to modern historians who might be tempted to cross the line into poetry is stern. "The historian has no right to expunge these prosaic characters in his material or to transform them into poetical ones," he writes, "he must relate what confronts him and as it confronts him without reinterpreting it or giving it a poetic form." So the historian might "struggle to make the center and single concatenating bond of his narrative the inner sense and spirit of the epoch, the people, or the specific event which he describes;" but he "still has no freedom to subordinate to this purpose the circumstances, characters, and events confronting him . . . to these circumstances, etc. he must give free play in their external contingency, dependence on other things, and uncounseled arbitrariness" (Ä 988–9/TWA 15:260–1). If a natural disaster, instead of a human-generated conflict, causes a war, historians must recount this. They must not attribute poetic motivations where there are only prosaic ones. They may well be able to bring inner images of individuals or events to our minds, but they cannot weave them arbitrarily into an aesthetic whole.

Having forbidden historians a return to the poetic, Hegel concludes this section by considering whether they can extend into another realm. "Finally, if the historian carries his subjective inquiries so far as to probe the absolute reasons for what happens and even Divine providence, before which all accidents vanish and where a higher necessity is unveiled," Hegel writes,

nevertheless . . . he may not allow himself the privilege of poetry for which this substantive basis of things must be the chief thing, because poetry alone is given freedom to dominate the available material without

hindrance in order to make it adequate, even externally, to its inner truth.

(Ä 989/TWA 15:261)

Historiography, it seems, must be strictly confined to Objective Spirit: the reflection on truth and what it entails must be left for art, religion, and philosophy. But in this passage, Hegel does leave open to the historian the possibility of seeking the “absolute reasons for what happens:” to return, again in Pinkard’s phrasing, to trying to ascertain whether history makes sense. But for this, historians do not need poetry. They need philosophy.

15.3 From Historiography to World History

One of Hegel’s aims in the introduction to his *Lectures on the Philosophy of History* (VPG) then, is to show how history, in transitioning away from poetry, should make use of philosophy. History, we now know, should no longer seek to be poetic. But neither should it remain a simple recounting of who did what when. What, then, should it be like? And how will it make sense?

In the service of answering these questions, Hegel differentiates three kinds of history. The first, original history, is exemplified by Herodotus and Thucydides, “whose descriptions are for the most part limited to deeds, events, and states of society, which they had before their eyes, and whose spirit they shared.” Although here Hegel is ostensibly writing about history and not poetry, his description of what these early historians did is strikingly similar to his definition of poetry as the art of evoking internal images through words: early historians “simply transferred what was passing in the world around them, to the realm of re-presentative intellect,” he says. “Such original historians, then, change the events, the deeds, and the states of society with which they are conversant, into an object for the conceptive faculty,” he continues: “In the same way the *poet* operates upon the material supplied him by his emotions; projecting it into an image for the conceptive faculty” (VPG 1–2/TWA 12:11–2). In contrast to societies that relied on ballads and legends, however, such historians “have to do with people fully conscious of what they were and what they were about.” This full self-consciousness “affords a very different basis . . . from that fugitive and shadowy element, in which were engendered those legends and poetic dreams whose historical prestige vanishes, as soon as nations have attained a mature individuality.” It is a stark description: the historical prestige of poetic dreams has vanished (VPG 1–2/TWA 12: 11).⁶

But such historians, Hegel suggests, are not yet reflective. They have no distance from the events they relate. Reflective historians, by contrast, represent for Hegel a kind of middle point: here historians use the past to draw simplistic moral conclusions, to isolate historical lessons for today; they consider what history itself is, or recount the history of practices that are themselves reflective such as art, law, or religion.

Then finally, there is philosophical history, or the history that aims, through an understanding of the deepest truths about reality and its structure, to determine whether history makes sense. The philosopher of history's job is not to bring events or individuals before our inner imagination but to achieve an understanding of what these events mean. When we follow Hegel in doing this, we no longer have spiritual images in our minds of battles or sovereigns; instead, we understand history through thought. Philosophical history might therefore seem, Hegel admits, to be a process "diametrically opposed to that of the historiographer" (VPG 9/TWA 12:20). If that is true, it might be because such a history is not, in the end, for the historiographer but for the philosopher to undertake.

So Hegel duly undertakes it and, to the question of whether history makes sense, his answer, famously, is yes. In the lectures on the philosophy of history, he asserts that the "'Idea' or 'Reason' is the *True*, the *Eternal*, the absolutely *powerful* essence; that it reveals itself in the World, and that in that World nothing else is revealed but this and its honor and glory." This revelation of the Idea appearing in the world happens, in part, in the *Philosophy of Right*, in which Hegel takes us through property, contract, morality, and on to the institutions of ethical life. If implemented in the way Hegel imagines them, these institutions –the family, civil society, and the state– facilitate citizens' concrete freedom. Indeed, Hegel tells us that "[t]he history of the world is none other than the progress of the consciousness of freedom; a progress that we must acknowledge in its necessity" (VPG 456,19/TWA 12:540, 32).

In his notorious delineation of the stages of this progress, Hegel claims that in "the Oriental realm," humans only knew that one person, namely the ruler, was free; in "the Greek realm," all except slaves were free; the "Roman realm" established freedom for all in terms of Roman citizenship; the "Germanic realm" promises the "principle of the unity of divine and human nature and the reconciliation of the objective truth and freedom which have appeared within self-consciousness and subjectivity" (PR §379). It is in this sense, in my view, that Hegel talks about the end of history: after progressing from the view that one person is free to the view that some are free and finally to the conviction that all are free, there is nowhere else, logically, for the development of the consciousness of freedom to go. History from this point will be the history of working out our endless attempts to allow humans to actualize their freedom.⁷

But there is a sense in which even philosophical history is still a story and a story that calls up images in our minds. And so we should ask: what story is Hegel telling, here at the end of the *Philosophy of Right* as he creates images in his readers' minds of various nations and then places those nations in a story? How should we diagnose the effects of that story, 200 years after its appearance in our own history and in our own quest for justice? Part of understanding history, as Pinkard says, is understanding "the details of the paths on which we are dependent for having brought us to where we are, whenever

we undertake to determine what we might become” (Pinkard 2017: 168) One of those paths is the *Philosophy of Right*. How do we assess that path in our ongoing attempts to determine what we might become?

A full evaluation of this question would take us too far afield. But there is plenty of evidence that histories like Hegel’s have had deadly effects. This is true whatever Hegel’s intentions were.⁸ But there is no doubt that Hegel’s lectures on the philosophy of history create images depicting non-European nations as irredeemably savage or hopelessly childlike, or sometimes both. Hegel’s story includes images of Native Americans whose “main characteristic” is “groveling obsequiousness” and African queens who crush their babies in mortars.⁹ We have already seen his exoticized description of Indian and “Oriental” historians. Even in his more generous assessments, non-Europeans, as Pinkard puts it, are for Hegel simply “failed Europeans” (Pinkard 2017: 50). And then, having called up these images, Hegel tells a story about them: that some are irredeemable, despite his own claim that all humans are free; that some are doomed to be shut out of progress; that some have earned their treatment as barbarous at the hands of the more advanced nations who, at the moment Hegel was writing, were expressing their “enlightenment” by enslaving and exterminating whole nations that stood in the way of their global ambitions.

World history, Hegel claims, is the history of the consciousness of freedom. I suggested earlier that for modern humans, who ostensibly accept the claim that all humans are free, this means negotiating ever-changing calls for new kinds of recognition, new ways of conceptualizing justice. It means taking seriously new crises and new opportunities in the ongoing attempt to achieve justice for all. One way of doing this is to recognize that the images we form of other cultures matter, as do the stories we tell about them. Recognizing philosophy’s role in those images and stories matters, too. If we are to take seriously Hegel’s claim that our ethical obligation to each other is to make concrete freedom possible, then it is, in my opinion, the responsibility of scholars of this particular Hegelian story to acknowledge how it has, to quote Pinkard again, “brought us to where we are.” It is our responsibility to remind ourselves that Hegel argued in the *Philosophy of Right* that “civilized nations” are entitled “to regard and treat as barbarians other nations which are less advanced than they are in the substantial moments of the state” (PR §351). It is to take in the full force of his report that “Negroes are enslaved by Europeans and sold to America,” but that, “bad as this may be, their lot in their own land is even worse, since there slavery quite as absolute exists” (VPG 96/TWA 12:125).

Our acknowledgment of these aspects of Hegel’s history must be part of our determining “what we might become.” It is our responsibility, in terms articulated by Hegel himself, to acknowledge ways in which old practices – a hierarchical story about world history, or the creation of images of unredeemable barbarity – interfere with many humans’ ability to be free: make it harder, to return to poetry for a moment, for the arc of history to bend

toward justice, or for us to lay down our arms so we can reach out our arms. Perhaps understanding Hegel on this point can help us, his readers two centuries after his own story was published, do better.

Notes

- 1 For discussion of these terms, see De Seade (1979), and Peperzak (2001: 518). Sibree's translation of PH translates *Volk* in different ways in different contexts. See also Moland (2011: 77–8, 192).
- 2 For a related question, namely whether “an appreciation of beauty has any essential role to play in Hegel's conception of the modern state and in the establishment of its sovereignty,” see Ciavatta (2020).
- 3 See my discussion of national epics at Moland (2011: 126–41).
- 4 I discuss what music in particular can tell us about Hegel's understanding of feeling in Chapter 9 of Moland (2019).
- 5 On Sterne, see (Ä 660/TWA 14:229); on Goethe, see (Ä 593/TWA 14:220). For more discussion of the differences here between prose and poetry, see Brownlee (2020: 61–6).
- 6 In fact, Sibree here has taken some poetic license himself: Hegel's original sentence is not as dramatic. It reads: “Der Boden angeschauter oder anschaulicher Wirklichkeit gibt einen festeren Grund als der der Vergänglichkeit, auf dem jene Sagen und Dichtungen gewachsen sind, welche nicht mehr das Historische von Völkern machen, die zu fester Individualität gediehen sind.”
- 7 My interpretation here differs from Pinkard's in that he claims that Hegel's assertion that “the final end of history is that of freedom” is “merely the shorthand he adopted in his lectures” for possibly inattentive students and the general public. Pinkard is concerned that this definition of freedom would make it finite as opposed to infinite and that “if freedom were such a finite end, then if we achieved it, we would be done with history” and history would be “just an endless repetition of what would be needed to keep freedom . . . in place” (Pinkard 2017: 42). To my mind, the “infinite” understanding of freedom is precisely the realization that, once having accepted freedom as a defining good, it is our only and infinite task to continue to realize it in changing historical and social circumstances.
- 8 See for instance Bernasconi (1998, 2000).
- 9 On Native Americans, see (VPG 81/TWA 12:108). On Africa, see (VPG 91–99/TWA 12:121–9). True to his resolution in his lectures on the philosophy of history to leave Africa behind as ahistorical, he does not mention it in the *Philosophy of Right's* discussion of world history.

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16 Synchronic and Diachronic Aspects of Historicity in Hegel's State

Christopher Yeomans

Perhaps the virtue of Terry Pinkard's work that has most inspired my own thinking is the deep historical imagination that he brings to the interpretation of the classical German philosophical texts. I am sure I am not the only one in this audience for which his great book on the *Phenomenology*, *The Sociality of Reason*, brought the conflicts of the different shapes of consciousness to life and made them palpable as existential struggles for the first time. This imagination is also on display in his *Does History Make Sense?*, and one of the most interesting interpretive moves he makes there is to interpret Hegel's treatment of non-European societies as a description of "false starts"—not so many stages on the way to Europe but just failed versions of Europe. This makes Hegel both wrong and instructive in unique ways:

[O]n his own terms, Hegel's mistake is not per se with his conception of subjectivity nor with his conception of freedom, but rather with his idea that entire civilizations in effect and never move on to the right type of reflective subjectivity. In the last analysis, Hegel's rather negative characterization of non-European shapes of life turns out to be less about them (despite what Hegel himself actually thought it was about) and more about the problems inherent in any collective Enterprise that either take some thing to be like the "moral" to be equivalent to "actually existing social rules" or which takes its own collective project to be simply unintelligible and less available only to the mystical. Even though that may be a fundamental mis-characterization of the non-European shapes of life Hegel discusses, both options were live in Hegle's time for European life itself. In effect, Hegel was saying: see where this leads you?

(Pinkard 2017: 67)

This hitch and even discontinuity in the historical line of development, and this sense that some historical struggles are ultimately fruitless, raises questions about the nature of that development and its mechanism. That mechanism is essentially one of conflict, and the thesis that I want to pursue is that the nature of the conflict determines the temporality of historicity. If this thesis can be maintained, then it will turn out that the temporality of historicity is

rather more synchronic than diachronic—more about the complex nature of the present than an arc of change connecting the past to the future.

The following well-known passage from Hegel's lectures on the philosophy of history brings together many of the themes that I want to explore:

Development, which as such is a peaceful procedure because in its expression it remains simultaneously equivalent to and within itself, is, within spirit, in a hard and ceaseless conflict with itself. Spirit wants to attain to its own concept, but it conceals itself from it and is proud and full of satisfaction in its alienation from itself. [Spiritual] development, therefore, is not just a harmless and conflict-free process of emergence, as in organic life, but rather a hard and obstinate labor directed to itself; moreover, it involves not merely the formal aspect of developing as such but rather the production of a purpose or end with a specific content. We have established from the beginning what this end is: it is spirit, and indeed spirit in accord with its essence, the concept of freedom. This is the fundamental object and thus also the driving principle of development. Such an object is that from which development derives its meaning and significance; so for example in Roman history Rome is the object, which guides the consideration of events, while the events in turn proceed only from this object, deriving their meaning from their relationship to it and having their substance in it. (LPWH 109)

The particular point that interests me here is the conflict involved, and the way that it appears to hold the key to the peculiar temporality of development. That development is held to be substantive—i.e., contentful and specific—rather than merely formal. And part of the content is this notion that spirit “conceals itself from it and is proud and full of satisfaction in its alienation from itself.”

It might be tempting to think that there is an alienated version of the spirit of an age, and a true or authentic spirit of an age, and the conflict between them is finally settled when that authentic spirit wins out and expresses itself. But I think that reflection on some examples will show a more fundamental and widespread alienation: in fact, the conflict is between different alienated forms of the spirit of the age, each of which clearly grasp some features of that spirit and obscure others. The conflict is not simply to determine which versions of the spirit of the age wins—that would be a merely *formal* conflict in which a winner and a loser were declared without changing the nature of the winning and losing team, as it were. (If Switzerland beats France on penalties, that doesn't change the makeup of either the Swiss or the French football teams.) Rather, the *substantive* conflict is one in which each alienated version of the spirit of the age is forced—grudgingly—to acknowledge the truth contained in the other alienated versions of that spirit.

This substantive conflict is spelled out in most detail in the state described in Hegel's *Philosophy of Right*. But that state looks like something

synchronic—something simply present at a given time, with coordinated and coexisting parts. As such, it can be hard to see what is historical about it, except to see it as a product rather than a process of history. In order to try to get at the way that it is a process rather than merely a product, I want to pick up on some often neglected themes from Kant and Fichte in which there is also something diachronic built into the synchronic scheme of rights. Thus I begin with two sections that collect relevant dimensions of historicity from their political philosophies, respectively, and show how these dimensions are operative within Hegel's state. Kant's great contribution to the historicity of political philosophy is his conception of *provisionality*, whose importance for his own *Doctrine of Right* has been severely underestimated. Hegel's state too is essentially provisional, and its institutional structure is designed to model and support the kind of publicity that Kant saw as the motor of progress in a provisional state. Fichte's great contribution to the historicity of political philosophy lies in his simultaneous development of three different political philosophies that are only tenuously connected to each other: an ideal theory in his *Foundations of Natural Right*, a non-ideal theory in his *Closed Commercial State*, and an educational theory of progress in his *Characteristics of the Present Age* and *Addresses to the German Nation*. Without trying to interpret Fichte's views in any detail, I do try to show that these three political philosophies can be characterized in terms that the historian Reinhart Koselleck has left us: the *Foundations* as a horizon of expectation, the *Closed Commercial State* as a space of experience, and the *Characteristics* and *Addresses* as the relation of agency that connects the horizon and the space. Then I show that Hegel's state is the kaleidoscopic result of including all three of these elements within a single institution. The next two sections try to work out this notion, first simply by interpreting different institutional elements of the Hegelian state in terms of the temporal perspective of the social groups that Hegel envisions populating its members. In the estates' assembly, for example, the lower house populated by the agricultural estate is inertial, pulling the state backward towards the standards of past practices in the space of experience. By contrast, the upper house populated by the estate of trade and industry is accelerationist, pressing forward towards the horizon of expectation. But then in the fourth section, I go on to show how each of these Hegelian groups contains the whole package of historical dimensions—the space of experience, the horizon of expectation, and their relation. The genius of Hegel's state is to form an interlocking mechanism of social groups, each with its own historicity. Finally, in the concluding section, I return to Hegel's conception of world history to say something about the way in which these conflicts are essential to the world-historical status of states since the time of the Persian empire.

16.1 The Kantian Provisionality of the Hegelian State

The significance of Kant's conception of provisionality has been sorely underestimated by Kant scholars. At its heart, it is a conception of right as

both *valid* and *inconclusive*. It is valid both because it is natural in its general form and the result of permissible (and inevitable) human actions in its specific form. But it is inconclusive both in its general form because it is the result of particular wills rather than the general (omnilateral) will, and in its specific form as claims to particular objects and choices because such claims are subject to disagreement without the possibility of definitive adjudication. Perhaps Kant's clearest and most concise expression of provisionality is this:

Possession in anticipation [*Erwartung*] of and preparation [*Vorbereitung*] for the civil condition, which can be based only on a law of a common will, possession which therefore accords with the *possibility* of such a condition, is *provisionally* [provisorisch] *rightful* possession, whereas possession found in an *actual* civil condition would be *conclusive* [peremptorische] possession.
(MM 6:256–7)

Our possession today would not be valid if it were not in anticipation and preparation, but it is nonetheless valid in advance of that which we anticipate and for which we prepare. It is a possession that is consistent with the possibility of that which we anticipate, but which does not itself do anything to bring about or even make more likely that which we anticipate. Through the public use of reason, we may prepare for that which we anticipate, but our property and contract claims are not, themselves, such a preparation.

Most importantly—but also most controversially—Kant saw more clearly than most today that this provisionality is a permanent condition of modernity, and that the point of neither politics nor political philosophy is to move past some threshold at which time provisionality can be put behind us. The “moral politician” should try to prepare the way for the civil condition:

A moral politician will make it his principle that, once defects that could not have been prevented are found within the constitution of a state or in the relation of states, it is a duty...to be concerned about how they can be improved as soon as possible and brought into conformity with natural right, which stands before us as a model in the idea of reason...[I]t would indeed be absurd to require that those defects be altered at once and violently; but it can be required of the one in power that he at least take to heart the maxim that such an alternation is necessary, in order to keep constantly approaching the end (of the best constitution in accordance with laws of right).

(PP 8:372)

We citizens may anticipate the civil condition, and may even play some part of our own in preparing for it indirectly through our participation in publicity. But we do not, properly speaking, wait for such a civil condition to either make or evaluate rights claims.

The fact that Hegel's state is provisional in this sense is unlikely to take anyone by surprise, at least as far as the general outlines are concerned. From Hegel's view that political philosophy in particular is its own time comprehended in thoughts to the *very* specific institutional design of Hegel's state, it is abundantly clear to most readers that Hegel is providing a theory of political relations for a particular time.

It is perhaps less clear that Hegel is providing a theory of political relations for a time that lived in anticipation of and preparation for another time, and that understood itself in relation to such a horizon of expectation. That Hegel's time answered to this description is beyond doubt—but do we find it explicitly in Hegel's state? We do, but the nature of and distance to that horizon are rather different than they are for Kant. Kant's horizon is very far off in the distance—even if it is set by natural law and thus in some sense *visible*, Kant thinks that it is impossible to set up any kind of metric that would measure our distance to it. There is progress in principle but not in practice. This is yet another reason to think of it as something purely ideal, despite our temporal orientation to it. And in fact, Koselleck himself introduces the notion of a horizon of expectation via the old joke that when Khrushchev said that communism was on the horizon, he meant that it is at that point which always recedes as the closer one approaches. (As we will see in the following section, Hegel's horizon is not even as far off as Fichte's is, which is at least a vision of a cosmopolitan collection of economically self-sufficient states to be produced within a generation.) Hegel's horizon is the reformer's horizon, or the horizon of a five-year plan. It is a horizon already in some sense in contact with the space of experience—an institutionalization, Hegel thinks, of the social forces that already exist in Continental European states.

And what about the notion that rights claims are provisional in anticipation of more definitive adjudication by the general will? This is perhaps the deepest sense in which Hegel's state is provisional, but also perhaps the hardest to see. Two important things to note here, one conceptual and one institutional. The conceptual point is that the terms Hegel use in Abstract Right for the sorts of private legal claims that are provisional—property (*Eigentum*) and contract (*Vertrag*)—are almost completely replaced in Ethical Life by parallel notions—resources (*Vermögen*) and corporations. For Hegel, the specific rights claims that we make to private objects and choices are valid only because they anticipate a cooperate productive arrangement in which flows of income and work opportunities are more important than any physical object or personal attachment. The second important thing to note is that of all of the classical German political philosophers, Hegel has by far the most to say about the actual structure of the legislature and the process of legislation. That is, he is the most attentive to the specific processes by which the general principles and specific applications of property and contract rights are made more definite and more public. He is also the only one among the German Idealists to pick up on the Montesquiean insight that the separation of powers is only meaningful if it is an institutional separation that goes hand-in-hand

with a social differentiation (Montesquieu 1995: XI, 6; 327ff.). This means that Hegel has gone beyond Kant to a sociology of precisely the kinds of disputes that tend to undermine the certainty of rights claims in the absence of the civil condition. He has built into his state a discussion about those claims that involve the perspectives of the different groups precisely as a mechanism for minimizing the uncertainty that such differences might produce in those claims.

16.2 The Three-Fold Fichtean Root of the Principle of the Hegelian State

Though Fichte's reputation as an *a priori* philosopher is, on the whole, well-deserved, his political philosophy has a multifaceted nature that belies this characterization. Taking the broad view, we must note the contrast between his major works on political philosophy: the *Foundations of Natural Right* (and later *Sittenlehre*); the *Closed Commercial State*; and his historical works (the *Characteristics of the Present Age* and *Addresses to the German Nation*). The first is quite clearly a collection of *a priori* arguments for the rightful form of political and social life (including the family). The second is self-consciously an intervention into practical debates and spells out the crucial additional practical feature of the political state described *Foundations*, namely that the economic state be co-extensive with the political state. Finally, the historical works—and the *Addresses* most of all—attempt to locate Fichte's temporal moment in a historical sequence and to identify the means by which the political state of the *Foundations* can be brought about by human agency. In the *Addresses*, the key is a new set of educational practices.

In this way of thinking about the texts, the *Foundations* presents what Koselleck called the *horizon of expectation* (*Erwartungshorizont*), which is a kind of future made present. Again and again in the *Foundations*, Fichte argues that the relations he is presenting are possible because they are necessary—in fact, they are what are required for human beings to live free and self-conscious lives. This way in which such relations condition something so basic makes them almost tangible even as they remain ideal. Their absoluteness is both terrifying in its Jacobin purity—the only appropriate punishment for any crime is stripping the criminal of their humanity and treating them as a wild beast!—and yet also a simple and elegant way to recognize the equality of all free citizens. In contrast, the central condition of the *Closed Commercial State* is its static and customary nature. For the planned economy to work, the needs of the people must be determined by what they are used to and then never change, except in a sort of gradual, quantitative way. In Koselleck's terms, this is the *space of experience* (*Erfahrungsraum*), which is a kind of past made present. Fichte's closed commercial state resembles nothing so much as Mack Walker's German hometown writ large. In particular, the conception of property as a kind of monopoly on a certain sort of production resembles nothing so much as the guild system (though stripped of its hereditary basis).

Finally, in the *Addresses* we get the practical suggestion for political action to take us from the space of experience to the horizon of expectation. Socially speaking, this is a shift in which the largely hereditary estates (*Stände*) of the space of experience are transformed into the classes (*Klassen*) of the horizon of expectation through an adoption of Pestalozzi's scheme of education. Even once that shift is accomplished, however, it will be up to the lower classes to maintain the present while the scholars prepare for the future.

But this presentation so far glosses over the fact that these projects do not align perfectly with each other. What the *Foundations* tells us to expect is what a just society would be like that had had no prior social relations, i.e., what would be produced from a space of experience that was itself a pure state of nature. In contrast, the *CCS* really only takes the conception of property from the horizon of the *Foundations*, and its proposal for political action is quite different from that of the *Addresses*. The latter's proposal of the isolated education of the moral vanguard is, in a sense, a return to orientation by the horizon of the *Foundations*. But it does so by eschewing any space of experience since the purported idealism of Pestalozzi's method is said to lie in teaching students not to generalize from past experience but to project the necessary future into the present.

One gets a more coherent package in the *CCS* itself, where the proposal for political action (change the money and buy up foreign goods) connects to *both* the space of experience and the horizon of expectation. One of Fichte's central claims in the *CCS* is that the just society which we anticipate requires the political state to be co-extensive with the economic state (which is a condition added to those of the *Foundations*). The current troubles of Europe, Fichte thought, were the result of those two borders coming apart. Before eighteenth-century state-building took place, all of the continent was one nation and one economy. But then constitutional states divide up the nation into separate states, without dividing up the economy. The solution, Fichte thinks, is to divide the economy so that the political and economic states once again match each other. This also involves allowing political states to expand to their "natural" borders, i.e., to the borders which allow them to be economically self-sufficient.

In point of fact, in Fichte, we could equally see the three elements in each of the works, even if in less clarity. This is easiest to see in the *Closed Commercial State*, which is explicitly divided into a pure part (the theory of property from the *Foundations*), an applied part, and a means to get there (close the state at its natural borders). But also in the *Foundations* there is an important shift in the antinomy of punishment towards a recognition of the economic challenges of the given level of development, and in the *Addresses* the point of the educational system to be adopted is for students to project the anticipated social order rather than generalizing from their experience.

The details, obviously, are rather different in Hegel. Among the obvious differences, Hegel thinks that it is better to repurpose the concept of estate (*Stand*) rather than supersede it in favor of a notion of class, despite the fact

that Hegel sees no prospects for a planned economy and accepts the necessity of free markets. He also has no sympathy for Fichte's notion in the *Addresses* that a radical change in educational practice will generate a moral vanguard to transform society. But that lack of sympathy can easily mask Hegel's recognition that there already existed a political vanguard in the form of the reforming bureaucracy. Who needs Fichte's education camps when teachers like Kant were busy producing students such as Theodor von Schön, author of the *Oktoberedikt* that ended serfdom in Prussia?

Despite these differences, the historicist structure is transferred from Fichte to Hegel, specifically by making the political structure of the state co-extensive with the economic structure of society. For Hegel, this is done by reproducing the corporate (*ständisch*) structure of the economy in the state. This approach is very far from Fichte's view in the *Addresses*, less far from his view in the *Foundations*, and fairly close to his view in the CCS. Hegel insists that this reproduction of the economic social structure in the political structure is crucial, on pain of leaving the political state hanging in the air without connection to the actual interests of society. But the particular way that this is done reveals the historicist structure of both state and society. Specifically, the state includes a chamber of the estates' assembly for the agricultural estate that represents the space of experience. In their connection to traditional modes of production and customary social expectations, the members of the agricultural estate represent the perspective of the past made present and take up proposed legislation and regulation from that point of view. Another chamber of the estates' assembly is for the estate of trade and industry (*Stand des Gewerbes*), which represents the horizon of expectation. These representatives of civil society are oriented towards a future that seems achievable precisely in its simplicity—in the reduction of social relations to voluntary agreements and the justice of property in particular to the validity of acquisition and transfer. This liberation of productive capacity from the fetters of corporate society represents an ideal future that forms the point of view from which this estate takes up legislation and the operations of government. Finally, there is the Stand of the government itself—the universal estate—which is the primary state agent and thus the primary source of the actions and regulations that are subject to the publicity of the agricultural and industrial points of view. The universal estate is oriented towards the near future, or the extended present: what might be done now under given conditions to promote the anticipated future. Its conception of political action is a kind of present made future, a perpetually delayed fulfilment of practical interventions in society.

But we can say further that when it comes to the question of the political action that would take us from the space of experience to the horizon of expectation, we find the German Idealists splitting along lines that we already saw in the analysis of property. Kant offers us an essentially personal perspective—in publicity, everyone should speak the truth according to their own conscience and point of view. Fichte offers an essentially economic perspective, at least in the CCS—the key move is to change the money and thus

eliminate international trade. And Hegel offers an essentially political perspective—so much so that it is hard, at first, to see what the action is supposed to be. It is not distributed to individuals as it is for Kant, but nor is it to be accomplished in one fell swoop by a specific set of government actions, as it is for Fichte. It is not only governmental like Fichte but also diffuse in time like Kant, for in fact the political action is nothing less than the structure of the state, which is a kind of interminable action but structured as a conversation between different social groups. In this sense, it sits alongside Kant and Fichte as one other option.

But in another sense, it supersedes Kant's and Fichte's by including those options within its own. Unlike Kant and Fichte, who have almost nothing meaningful to say about the structure of government, Hegel goes to great lengths to clarify that structure. And in that structure, one finds the Kantian and Fichtean elements reproduced. The Kantian element of publicity is reproduced in the way that the Hegelian legislature is supposed to work—not by actually legislating, but rather by holding the bureaucracy to account through public hearings. And the Fichtean element is reproduced in the way that Hegel takes seriously the economic constitution of the state. Again, Hegel has no sympathy for the simple form of Fichte's solution to this separation of the economic and political states. But there is nonetheless in Hegel an attentiveness to the political dimension of economic life that is entirely missing in Kant. This attentiveness has two different dimensions, one more traditional and one more modern, in the way that both the *ständisch* constitution of society generally and the corporate form of industrial society are reflected in the structure of the state.

16.3 The Hegelian State as a Combination of Temporal Orientations

Here I want to just say a bit more about the temporal orientations of different estates and thus the different parts of government in Hegel's state. We have just seen some of this. In their connection to traditional modes of production and customary social expectations, the members of the agricultural estate represent the perspective of the past made present, and take up proposed legislation and regulation from that point of view. The estate of trade and industry is oriented towards a future that seems achievable precisely in its simplicity—in the reduction of social relations to voluntary agreements and the justice of property in particular to the validity of acquisition and transfer. This liberation of productive capacity from the fetters of corporate society represents an ideal future that forms the point of view from which this estate takes up legislation and the operations of government. And the public estate is oriented towards the near future, or the extended present: what might be done now under given conditions to promote the anticipated future. Let us say a bit more about each of these estates and how their economic-social form of experience gets built into the Hegelian state in such a way as to constitute its historicity.

As I have argued in other works, Hegel's description of the agricultural estate is both grounded in German Enlightenment and Cameralist treatments of that estate and represents a Fichtean conceptual claim regarding their specific relation to the rational discussion of policy in the state (Pw/oP). The Enlightenment and Cameralist treatment is well-represented by Christian Garve's 1786 *Ueber den Charakter der Bauern und ihr Verhältniss gegen die Gutsherrn und gegen die Regierung*. Hegel picks up on Garve's use of the common term "*tückisch*" to describe the peasantry. As Garve understands the term, it refers to a kind of irrational resistance to any suggestions of change. There is thus a natural conservatism to this estate as a matter of its basic outlook (*Gesinnung*). As Garve had it, this resistance to even considering change was due to the peasants' experience of arbitrary treatment by the manorial lords. But in the context of Hegel's *Grundlinien* 35 years later, it is worth mentioning that by that time the nobility itself was responding in exactly the same way to proposals for reform. It is for this reason that Hegel folds the landed nobility into the agricultural estate along with the peasantry. The conceptual claim is that such an estate represents the group of people who have rejected Fichte's summons to be free, and who are thus dragged into the space of reasons against their will by their very rejection of it. Hegel's legal recognition of the agricultural estate and his giving to it an essential political role through its sole possession of one chamber of the estates' assembly amounts to an institutional recognition of traditionalism as a free choice, i.e., as an outlook befitting a citizen of a modern state. Historically speaking, this is an anchoring of the state in the space of experience, in the past made present.

It is easy to see Hegel's treatment of the *Stand des Gewerbes* as continuous with a wide swath of modern political philosophy, though Hegel is attentive to the ways in which the conceptual claims made represent social interests and, in fact, the perspective of a particular group. And that particular group is introduced by giving it an essentially historical valence: "In den andern Teil des ständischen Elements fällt der *bewegliche* Seite der *bürgerlichen Gesellschaft*..." (PR §308). The connection of the *moving* or *changing* side with *civil society* is not accidental, but reflects Hegel's understanding of civil society as permanent revolution (a feature of Hegel's view which is emphasized by Joachim Ritter, among others). In contrast to the agricultural estate for which the past represents the default, the *Stand des Gewerbes* represents change as the default, and there is a constant striving for new opportunities. Importantly, there is a tension within this estate just as there is with the last one, and the tension is similarly a tension between philosophical significance and social position. For the agricultural estate, its social position ties it to the past but the significance of its newly enunciated attachment is precisely to drag it into the present. For the *Stand des Gewerbes*, its philosophical significance is its articulation and defense of the atomistic conceptions of property and contract that are so well-represented in modern political philosophy. But its social position is different,

which Hegel emphasizes in the very paragraph in which he introduces the political function of this estate. Its social position is one of the overlapping communities:

Insofern diese von der bürgerlichen Gesellschaft abgeordnet werden, liegt es unmittelbar nahe, daß dies diese tut als das, was sie ist, – somit nicht als in die Einzelnen atomistisch aufgelöst und nur für einen einzelnen und temporären Akt sich auf einen Augenblick ohne weitere Haltung versammelnd, sondern als in ihre ohnehin konstituierten Genossenschaften, Gemeinden und Korporationen gegliedert, welche auf diese Weise einen politischen Zusammenhang erhalten.

(PR §308)

This contrasts quite sharply with the agricultural estate, which possesses precisely that kind of object (arable land) that can be turned into exclusively private property (PR §203).

To put the contrast between the agricultural estate and the *Stand des Gewerbes* in historical terms, the *Stand des Gewerbes* is defined by its horizon of expectation just as the agricultural estate is defined by its space of experience, and in recognizing the *Stand des Gewerbes* politically via a chamber of the estates' assembly, Hegel anchors another corner of the state in that horizon of expectation. It thus makes the expectation of perpetual revolution in the future into a politically endogenous force, bringing it into the state in the person of the *Stand des Gewerbes*. The third anchor is in the conception of political action relating the space and the horizon, and the state is anchored in this conception of action in the person of the public estate.

This is, of course, trivially true for the paradigmatic members of the public estate, namely civil servants. Political action is, quite literally, their job. That can be hard to see from our own contemporary perspective, in which we often contrast administration (*Verwaltung*) with politics. But in the *Vormärz* period, all administrative questions are simultaneously constitutional questions. As Koselleck has pointed out, in many respects the Stein–Hardenberg reform efforts were politically more radical than anything that happened in 1848 (Koselleck 1975: 13). Another unique feature of this estate also ties it close to modern conceptions of political action, namely its universal accessibility. No one is guaranteed the ability to become a farmer or a member of an industry, but the universal estate is to be open to everyone with the requisite interest and talent (PR §291). Most fundamentally, the work of the universal estate consists in reflecting the needs of the space of experience upwards and those of the horizon of expectations downwards so that they can meet in specific policies and judicial decisions which articulate the historical present. This is certainly true constitutionally, as the reformist bureaucracy attempted to manage goals such as judicial sovereignty in the light of resource shortages that necessitated a continued reliance on patrimonial courts. But it is also true most generally for any goals that included institutional change, and thus an

element that exceeded the space of experience. The job of the civil servant was to make progress towards that change while simultaneously meeting the needs in the present that were to be met by the new form of the institution in the future. In this sense, its perspective is a kind of present-made future. This is no easy task, and often the very means used to meet needs in the present so as to prepare society for change only deepened the entrenchment of the traditional institution. For example, the continued reliance on private jurisdiction to collect the taxes needed to fund the state courts that were to replace the private courts in the future had the natural effect of confirming the authority of those private courts. But the main point that is relevant here is that this is the task of political action, of dirty hands and endless compromises: politics as the art of the possible (*die Lehre vom Möglichen*—Bismarck).

16.4 The Hegelian State as a Combination of Historical Orientations

In this section, I want to expand the conception of historicity in Hegel's state by one further dimension. So far, we already have the sense in which Hegel's state is provisional in such a way that there are institutional representations of the space of experience, the horizon of expectation, and political action connecting them. And we have the sense in which these elements are anchored in the state via social groups (the estates) which are given different institutions in the state (the two chambers of the estates' assembly and the executive branch, respectively). The state is a continuing conversation about what norms should be valid within the state, carried on between these three groups who almost seem to live in different times. To use Friedrich Perthes' selection of dates, the agricultural estate is of 1750, the *Stand des Gewerbes* of 1789, and the public estate of 1815. Their coexistence—this “dynamic of a coexisting plurality of times”—constitutes the historicity of the Hegelian state (Koselleck 2004: 269). Part of this dynamic involves different metrics for the time itself. For agriculture, time is measured as velocity. For the *Stand des Gewerbes*, it is measured as acceleration. In this sense, agricultural time is natural time, and industrial time is progress. But in this last section, I want to show that each estate itself contains the whole complex of space, horizon, and action. To use some terms from Francois Hartog, they are not just different regimes of *temporality* which come together to form a historical present; they are, rather different regimes of *historicity* within themselves.

Agricultural estate is inertial: it holds the space and the horizon together paradoxically by claiming that they have no relation to one another. This is the pre-modern, predominantly Christian mode of historicity that Koselleck describes, in which the horizon of expectation is rendered eschatologically as the End of the World, which is to be produced by God's action rather than our own. Every few generations there will be predictions of the end times, but they don't impinge on the actual mode of life (Koselleck 2004: 265). Hegel emphasizes the annual and generational rhythms of agriculture.

Even though that rhythm introduces vulnerability, and thus generates a concern to provide for the future, the sense of providing for the future is really just that of maintaining the present in the face of threats to it. It is a future defined as subsistence, and this is true just as much politically as economically (PR §203). More generally, and more politically, this is an estate defined not by planning but by trust.

Stand des Gewerbes is accelerationist: it holds the space and the horizon together via progress—here is where, in Koselleck’s phrase *neue Zeit* is conceived as *Neuzeit* (Koselleck 2004: 268). This is the generation of 1789 because the French revolution made all prior experience irrelevant. The point is to get to the future as fast as possible, there is no going back. So again, somewhat like the agricultural estate, the *Stand des Gewerbes* holds the space of experience and the horizon of expectation together precisely by holding them apart. They coexist but without influence on each other, or at least without *acknowledged* influence. Unlike the agricultural estate, the *Stand des Gewerbes* associates political action with the horizon of expectation. Its own agency is aimed at realizing the future rather than maintaining the past.

The key to the difference between the *Gewerbestand* and the universal estate lies in a historical event, namely the defeat of the German states by Napoleon. The economic crisis demanded immediate and radical action (Koselleck 1975: 153). This shortened the distance to the horizon of expectation, bringing it almost into contact with the space of experience. At the same time, both the succession of French governments and the succession of reform plans in Germany generated real experiences of this new time, and this begins to shift the basic outlook. Koselleck again:

The lesser the experience, the greater the expectation: this is a formula for the temporal structure of the modern, to the degree that it is rendered a concept by “progress.” This was plausible for as long as all previous experience was inadequate to the establishment of expectations derivable from the process of a world reforming itself technologically. If corresponding political designs were realized, then, once generated by a revolution, the old expectations worked themselves out on the basis of the new experiences.

(Koselleck 2004: 274)

The universal estate represents the group that started to have experience of the new times themselves and thus started to orient themselves towards expectations on those grounds.

Thus it could happen that an old relation once again came into force; the greater the experience, the more cautious one is, but also the more open is the future. If this were the case, then the end of *Neuzeit* as optimizing progress would have arrived.

(Koselleck 2004: 274)

Rather than optimization, Hegel as himself the spokesperson of the universal estate gives us the good-enough state. But it is a state which is itself a form of political action rather than an end-state to be produced by such action. In part, this is because it is a state more interested in promoting positive freedoms of resources and organization than in protecting negative freedoms of property and contract. But it is also because the feedback loop for reform and thus the timeline for generating new experiences shortens dramatically. Its regime of historicity is most alive in the promise of reform, which lives as the present between the space of experience and the horizon of expectation: “Die Spanne zwischen Plan, Verheißung und Erfüllung—samt ihrer idealistisch-religiösen Erwartung—kennzeichnet das gesamte Reformwerk” (Koselleck 1975: 161).

The final point I want to make is that it is precisely in terms of their differential emphasis on one of the three elements of the historical structure that these three regimes of historicity fit together, and thus the social structure of Hegel's state fits together. The agricultural estate's emphasis on the space of experience fits together with the *Stand des Gewerbes*'s emphasis on the horizon of expectation and with the universal estate's emphasis on political action, even though the agricultural estate's experience of the horizon of expectation is quite different from that of the *Stand des Gewerbes* and its conception of political action is quite different from that of the universal estate. And so on *mutatis mutandis*. They are both interlocking and in tension. This interlocked tension constitutes a deeper historicity of Hegel's state, and the very purpose of the state is to bring this tension to light and make it itself a form of political action.

16.5 World-Historical States

Here I want to return to the *Lectures on the Philosophy of World History* briefly, to pick up on a feature of the historicity of the principle of the state that has implications for how we evaluate Hegel's own institutional design. The main contrast I want to draw is between those sorts of conflicts that are historically productive—that is, productive of history—and those that are not. For there is plenty of conflict *in* world history—ages without it are blank pages, Hegel famously says—but only certain sorts of conflict seem in his opinion to *produce* world history. Taking my cue from Terry's work, I will be interested in this contrast precisely as a lesson for our own contemporary arrangements rather than as a descriptive story about the societies involved. Even the philosophy of world history is a somewhat empirical discipline, and I don't see much point in trying to take up and correct Hegel's pictures. But it is instructive to use those pictures to develop the contrast between historically productive and historically non-productive forms of conflict, since clarifying the latter notion will help us clarify the peculiar temporality of world history. The main contrast I want to work with is between Hegel's pictures of China and India, on the one hand, and Persia and Rome, on the other.

Hegel draws this contrast in his introduction of Persia:

With the Persian empire we enter for the first time into world history proper. Although China is an important, essential element, it lies outside the connections of world history, as also does India, the other element, which has only a mute, silent, inner connection that passes by inconsequentially. With Persia, however there is in fact a conscious and clear connection... The Chinese and Indian world is still contemporaneous for us and therefore we can be more precise about it; the Persian world is one that has long vanished. If we know of the Persian world and what appears to us to be its most ancient aspect is an element that has survived all history and is still extant in venerable remains, that has come to light only in recent times.

(LPWH 304)

The lesson here is clear: presence in world history doesn't mean staying power. China and India have endured, but Persia not, according to Hegel. This is, however, something we might expect if we emphasize the way in which embodying conflict is essential to the presence in world history. Those states which are most historically productive might be precisely those most likely to tear themselves apart. It is then worth noting that the Persian and Roman empires are long gone, but China and India are still with us. This is even more worth noting because at other places Hegel emphasizes the fact that Persia, China, and India all begin to take shape at around the same time (~2200 BCE) (LPWH 221).

I close with this because I think Terry is right that China and India were, because of their endurance through time, live options for Hegel and his contemporaries. Hegel rejects these options, but *not because they cannot survive*; just the opposite: he rejects them *because they survive*. The conflict of obedience to authority is manageable indefinitely, as is the conflict of ethnic or caste difference, Hegel thinks. What is only imperfectly manageable but tremendously powerful is the modern conflict between fully manageable forms of life. Thus even the synchronicity of Hegel's state entails a diachronicity which is always capable of outstripping the means developed to manage it.

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17 *Alle sind frei.* Hegel's Philosophy of History as Liberal Apologetics

Mark Alznauer

Bernard Williams often criticizes contemporary philosophical defenses of liberalism for their ahistoricism (Williams 2005: 66–7). Although contemporary political philosophers have spent an enormous amount of time attempting to provide a defensible and systematic account of the principles of liberalism, he thinks they have entirely neglected the equally important task of explaining why it was not until sometime in the late seventeenth century in Europe that people began to have those convictions and ideas that are characteristic of the liberal view. Williams notes that several well-known attempts to provide the requisite historical account were provided in the eighteenth and nineteenth centuries—by Kant, Hegel, and Marx among others—but he finds that the kind of narratives they offered are no longer credible to us, and that no attempt has been made to replace them with anything more plausible. As a result, contemporary liberalism lacks what he calls a *theory of error*: a convincing explanation as to why everyone prior to the modern age failed to appreciate those facts about human rights that we now regard as basic, foundational truths of liberal morality and politics. In the following, I will be exploring to what extent Hegel's philosophy of history, or something like it, might be recruited to remedy this particular defect in philosophical defenses of liberalism.

17.1 Williams' Challenge

At the basis of Williams' challenge to philosophical liberalism is a certain understanding of the difference between the modern moral outlook and the pre-modern moral outlook. For Williams, a central presupposition of the modern outlook is that all human beings have equal dignity and deserve equal consideration in political life. The notion of dignity at work here is hard to spell out in any uncontroversial way, and it is certainly not the exclusive property of liberalism. Socialists, conservatives, anarchists, and so forth, offer their own accounts of what equal human dignity amounts to, what freedoms it entails, and what kinds of constraints it places on political life. What they all share with liberalism, though, is the distinctively modern belief that whatever else it entails, the recognition of such dignity is incompatible

with slavery. On all modern views, slavery is the very paradigm of injustice, the clearest and most unambiguous failure to respect the dignity of other human beings.

How should we understand this commitment? Williams suggests that for most of us, the idea that all humans have equal dignity is simply “*unhintergebar*” (inevitable, un-get-aroundable) (Williams 2000: 492). He means two things by this. First, it would appear that there is nothing more basic which we could invoke in order to justify it—we feel that if anything is wrong, slavery is wrong. Second, we find it impossible or at least very difficult to imagine circumstances which would lead us to give it up. The essential equality of all human beings, their ineligibility for slavery, has become so central to our self-conception and way of life that any loss of this conviction would be experienced as profoundly disorienting; we cannot envision a future without this commitment except as “a scene of retrogression, or desolation, or loss” (Williams 2000: 494).

Many recent writers have explored the irony that the modern commitment to universal freedom was first developed in Europe at the same time that increasingly sophisticated forms of chattel slavery were being inflicted upon millions in the colonies. Williams’ concern though is not with the contrast between the theory and practice of modern freedom, but with the contrast between the modern view and the pre-modern view it replaced. And what is striking about the pre-modern moral outlook is how little consideration it gave to this question at all.

It would be an exaggeration to say that no one in the ancient world ever considered whether slavery might be unjust, as has sometimes been said, but just barely. In the first book of the *Politics*, Aristotle responds to an unidentified group of individuals who claimed slavery was unjust by articulating his notorious doctrine of the natural slave. There is also evidence of minor sects, like the Jewish Essenes, who rejected the ownership of other human beings on principle. But even taking the few exceptions like these into account, it can be said that there was never any serious, publicly-articulated challenge to the justice of slavery in the ancient world. Not only was there no critique of slavery offered by any major thinker of Antiquity, but also, so far as we know, the very question of whether slavery should be abolished was never once raised, certainly not in a context that would provoke some kind of official defense. In Peter Garnsey’s survey of the ancient literature from Aristotle to Augustine, the first unequivocal condemnation of slavery as an institution is located in a sermon preached by Gregory of Nyssa in the late fourth century A.D., and even Gregory did not openly advocate abolition (Garnsey, 1996).

Williams explains the lack of debate about the justice of slavery in Ancient Greece in the following way:

Slavery, in most people’s eyes, was not just, but necessary. Because it was necessary it was not, as an institution, seen as unjust either; to say that it was unjust would imply that ideally, at least, it should cease to exist, and

few, if any, could see how that might be. If an institution was not seen as either just or unjust, there was not much to be said about its justice, and indeed it has often been noticed that in extant Greek literature there are very few discussions at all of the justice of slavery.

(Williams 1993: 117)

Williams argues that because slavery was seen as necessary for the political and cultural life of the Greeks, any question of its justice would have seemed misplaced. It is hard to find a perfect analogy, but slavery was regarded much as we might regard the depredations of wild beasts: as a deep misfortune or calamity for those exposed to them, but not something subject to evaluation in terms of justice or injustice.

Aristotle, of course, did have something to say about the justice of slavery, and this might suggest more moral discomfort with slavery in the ancient world than Williams allows for. But Williams argues that Aristotle's defense of slavery, which posits that slaves are incapable of self-rule, would have been as strained and implausible to the Greeks as it is to us. Williams shows that in their poetry and literature the Greeks fully recognized the sheer contingency involved in who became a slave; enslavement, in these accounts, was usually the result of war, and it was a fate that befall even Greeks. He concludes that the audience for these poems and dramas could have been under few illusions about whether Aristotle's justification fit the actual practice of slavery in their own cities—it clearly did not. For them, the indispensability of slavery for their way of life was likely enough of a reason to accept it, no further justification was called for.

Why does this pose a problem for philosophical defenses of liberalism? A liberal is someone who is committed to the claim that all humans have equal dignity, including the right against slavery, and that this requires the formation of political institutions which attempt to combine rule of law with “liberty more extensive than in most earlier societies, a disposition to tolerance, and a commitment to some kind of equality” (Williams 2002: 264). A *philosophical* liberal is someone who thinks that this conviction and its specific political entailments are unqualifiedly or universally true, either because they are self-evident truths of reason or because there is a sound deliberative route to them from such self-evident tenets. So the philosophical liberal is committed to the view that our conviction of the wrongness of slavery is not just *unhintergebar* but correct and universal in something like the sense that scientific truths are correct and universal.

The problem, then, is the following: if the fact that humans are ineligible for slavery is an obvious or self-evident fact, or a natural inference of reason, then why did it take humankind so long to see this fact or to draw the inference? Why didn't people of earlier times have better ideas about slavery?

It might be thought that there is no problem here just as there is no problem in explaining why people in earlier times did not have better ideas about astronomy, gravity, or natural selection. In some cases, they were unaware of

the relevant facts or had not yet performed the right kind of experiments to establish them, in other cases, it simply took a long time for better theories to be formulated to account for facts that were already known. Williams agrees that within this domain it is reasonable to think that the best explanation for our convergence on what we now regard to be true (say, that natural selection explains the origin of the different species) is that this answer represents the way the world is independent of any peculiarities of our own cultural perspective, and this is true even if it took a long time for this process to play itself out. And he thinks it is precisely the availability of explanations like these in the sciences supports or vindicates our conviction in the correctness of our scientific views.

But he thinks that within the domain of ethics or politics, we cannot provide similarly vindictory explanations. The problem is not merely that we do not see the same sort of convergence on answers in the ethical domain (though to some degree that is true), but that even when we do see a broad convergence, as in the case of slavery, we have no plausible hope of explaining that convergence in the same manner, as due to facts about the world that are independent of the peculiarities of our own cultural perspective. Instead, the explanations that we can offer for the disappearance of slavery in Europe, and the consequent rise of the modern moral outlook, involve a confluence of seemingly contingent causes, like the rising influence of Christianity, the consolidation of estates into larger units of exploitation that required different forms of work, and the increase of an internal labor supply in late Roman antiquity through the weakening of legal protections for tenant farmers. Indeed, on almost all accounts, the institution of slavery is already on its way out of Europe well *before* the development of any egalitarian, anti-slavery ideology, so the disappearance of slavery cannot plausibly be viewed as a consequence of some kind of collective insight into the wrongness of the institution.

The challenge Williams is posing to philosophical liberalism can now be made reasonably intuitive. He is asking: what are the culture-independent facts about the world that the Ancient Greeks or Romans might have overlooked, or failed to give the best account of, that establish that human beings have an inherent dignity? If we can point to facts of this sort, then an error theory will be easy to provide, as it is in the sciences. His suspicion, however, is that there are no culture-independent facts to be pointed to, that what modern moralists typically appeal to are actually culture-dependent intuitions about human dignity. He thinks that if we paid even cursory attention to the true history of these intuitions and convictions, we would find that they were not the result of a process of discovery like we find in the sciences, but of a multitude of contingent causes. And if that is what history shows, then we have no right to think that the arrival of the modern moral outlook represents progress in the same sense that the modern scientific worldview does. Even if we take our own outlook to be beyond question, we cannot say it is more correct or true than what came before it, not in a sense that could be demonstrated to people who do not share our enculturation.

The point needs to be made carefully. Williams does not deny that certain historically influential arguments for the permissibility of slavery or other forms of domination can be seen as straightforwardly false, and that we have good explanations as to why these false views were nonetheless adhered to (i.e., they were ideologically useful). In this respect, there has been clear progress—the replacement of less correct views about race, gender, etc. with more correct views. But it does not follow from the fact that if there are no good reasons for treating different classes of human beings differently, that they thereby have equal rights in the modern sense—something more needs to be added to make that inference go through. What Williams denies that any positive claim for the inherent dignity of all human beings can be shown to the true or correct in the same sense (Williams 2005: 8). This distinction between a critique of extant rationalizations for slavery and a positive case for human equality is especially important for our discussion here because some radically inegalitarian societies—the various cities of Ancient Greece on his own account—appear to have accepted slavery without depending on any potentially ideological account of why those enslaved were especially suited for it.

So when Williams says that this philosophical liberalism needs an adequate theory of error, he is saying that it needs an explanation of how we have come to believe in the dignity of all human beings that supports the view that this amounts to rational progress of the sort that we see in the domain of the sciences. As we saw, Williams thinks this was attempted several times in the German philosophical tradition, most notably by Kant, Hegel, and Marx. Kant's account relies on the wickedness of those in charge and the cowardice of those who have deferred to them in moral matters. Hegel and Marx take the more promising tack of accounting for this failure in terms of a sophisticated theory of history. For both, the institution of slavery and the beliefs that made it seem acceptable were historically necessary in the time in which they occurred, but they were doomed to be superseded by more rational institutions and beliefs. In Williams' view, a progressive history of this sort is the right sort of thing to be looking for, even if these particular accounts are no longer convincing to us.

17.2 The Hegelian Story

Before I look at some recent sophisticated attempts to reconceive Hegel's philosophy of world history in a way that might serve this purpose, let us look at the unreconstructed thing itself. There is no question that Hegel's philosophy of history is centered on the exact issue we have been focused on here. His own summary of world history is lapidary and famous: one is free, then some are free, then all are free. (LPWH I: 87–8) For Hegel, history proper begins with forms of political association in which the only the sovereign is regarded as free. In these early despotic states, everyone else is effectively indistinguishable from a slave, having no rights against the sovereign. The next stage

of history is one in which some individuals are regarded as free, as subject to the rule of law rather than to the unmediated authority of the rulers. In these societies, freedom becomes a central social value but it is understood as a social privilege not as something intrinsically demanded by the nature of humanity. Such states are comprised of both a class of people who have the privileges of freedom, citizens, and a variety of classes of people who are not granted all or any of these privileges—metics, women, children, and at the very bottom of the social hierarchy, slaves. The final stage of history comes with the recognition that all are free, that freedom is required by the nature or concept of humanity. This understanding of freedom, given enough time, eventuates in states in which slavery is no longer practicable, and so disappears as a viable institution (even if it continues to exist at the periphery of the modern state, in the colonies, and so forth).

This story is useful for liberal apologetics because it theorizes history as something like a learning process. The sequence of stages that world history passes through is understood in terms of the gradual unfolding of a single idea, the idea of freedom, each stage corresponding to a deeper understanding or consciousness of freedom. It has become unfashionable to contrast Hegel's idealism to Marx's materialism as polar opposites, but on this particular point, the contrast is fairly unmistakable. For Hegel, slavery was necessary for the Greeks precisely because they had an inadequate conception of freedom. He says:

It is only when human beings know that they are not things but persons, infinitely free on their own account, that slavery does not occur. It does not occur when the concept of the human is that human beings are free as such...For the Greeks, freedom holds good only because they are Greeks, because they are these particular citizens. Thus we see that [only] these Athenians, these Spartans, etc., are free; freedom is not yet grasped as what is universal but rather as something that is particular. Only when the free is *thought* are human beings free—free because they *are* free. This freedom presupposes that thought comes to itself. Thus slavery is necessary in Greece.

(LPWH I: 404)

Note that Hegel thinks it is changing *consciousness* of freedom that leads to the abolition of slavery. Elsewhere, he generalizes the point, claiming that every major revolution in human history comes from a change in our fundamental categories or concepts.

For Marx, of course, the great mistake of Hegel and his epigones was thinking that consciousness determines the modes of our social existence rather than the other way around. In Marx's rival view, it is changes in the forces of production, like the adoption of new technology, that are ultimately responsible for revolutions in social structure. Although only Engels put it quite this bluntly, this means slavery disappears only when it is no longer

economically necessary. Any religious or philosophical epiphany that slavery is wrong is a consequence of changes in the mode of production and is not the ultimate cause of them. In principle, Marx's theory is just as good, and perhaps even better than Hegel's, in explaining why premodern peoples failed to embrace universal rights—it offers a quite sweeping and broadly convincing error theory. But because Marx explains the transition to our own modern egalitarian norms in terms of material or economic factors, his account does not provide any obvious vindication for modern egalitarianism. It might show that bourgeois ideas about the inherent dignity of human beings are the ideological forms appropriate to the capitalist mode of development, but if it turned out that bourgeois ideology is *also* more true or philosophically defensible than previous ideologies that would be, from the point of view of the Marx's theory of history, an accident.

Hegel's philosophy of world history, on the other hand, not only purports to explain why previous societies failed to appreciate the value or dignity of all persons, it purports to do so in a way that vindicates that value. For Hegel, the process by which slave societies evolved or were replaced by modern constitutional states in which slavery has been eliminated is not just rational in the sense that it can be rationally explained, or follows certain laws, it is rational in the sense that it corresponds to the final stage of a learning process, a coming to understand that humans are “in themselves” or essentially, free beings. On this account, the gradual elimination of slavery in Europe and the truth of the claim that humans are essentially free are non-accidentally related; slavery disappeared *because* it was irrational or unjust. But Hegel is under no illusions that slavery disappeared in Europe because certain influential individuals realized it was unjust and set about to eliminate it. On his view, the arrival of the modern, egalitarian state takes place “in such a way that what occurs toward this end occurs as though unconsciously, seeming to constitute something happening by chance” (LPWH I: 459). Here the explanatory and the normative, the “is” and the “ought,” are interrelated in a peculiarly Hegelian way: the end is immanent in the historical process, not something anyone in history needs to have been consciously aiming at.

As promising as this might sound, difficulties emerge when you actually look at the details. Chief among them is the important role that Hegel allots to religious consciousness in this process. For Hegel, slavery exists in the ancient world because the ancient world lacks a fully adequate conception of the human being, and it lacks an adequate conception of the human being because it lacked an adequate conception of the divine. Hegel claims that it is only when human beings come to understand that they are free *as such* or by nature that slavery becomes impossible, and he credits Christianity with bringing this insight into the world. Christianity is the “religion of freedom” for Hegel because it teaches us that, in the eyes of God, all humans are essentially free and equal. On Hegel's account, it is the influence of this Christian doctrine of equality before God, particularly as it was taken up by the various

freedom-loving tribes of Europe (the notorious *Germanen*), that ultimately makes slavery impossible in Europe, thus ushering in the last stage of history, the stage where "all are free."

Although the claim that Christianity and slavery are essentially incompatible was common in the nineteenth century, it faces a fairly obvious historical objection. Given the copious evidence that the church fathers fully accepted the institution of slavery as it existed in Roman antiquity, not to mention the long record of tolerance for slavery and serfdom by the Orthodox and Catholic Church throughout the middle ages and into the modern period, the case for some essential doctrinal incompatibility between Christianity and slavery is, to say the least, not straightforward. Anyone who endorses this hypothesis is forced to posit something like a trickle-down view: a view that *in the long run*, Christianity proves itself to be incompatible with slavery.

Hegel, of course, is aware of the obvious historical objections that could be made to his hypothesis. He says:

One must not...seek the backing of external history, for instance by saying that slavery was not abolished by councils, and the like; the fact that slavery still exists today is no more pertinent than is the external way in which it has ceased. Slavery is not something done away with by kings; instead, Christianity has ended it. The abolition is worldly, but Christianity is the true humanity. For the external mode of the phenomenon is not the truth.

(LPWH I: 457)

In response to the standard objections, Hegel denies that the claims he is making must be exclusively grounded in external, worldly, empirical historiography. He suggests a philosophical examination of history must be supplemented with insights drawn from philosophy. What is particularly important here is noting that he has a developmental or teleological concept of truth: he believes that the "truth" of a thing only becomes evident in its full actualization, not in its origins (just as you only know the nature of a seed by seeing what it grows into). It is thus entirely consistent with Hegel's basic philosophical methodology to claim that Christianity would show itself to be essentially incompatible with slavery only *after* its full development in history had completed itself. Whether this is so or not would require philosophical comprehension of the nature of Christianity; it is not the kind of thing that can be established by merely empirical, inductive methods.

But even with the appropriate Hegelian qualifications registered, this still leaves us with an account of the rise of the modern moral outlook that is comprised of the following deeply controversial claims:

- 1 The social and legal structure of any given state is not primarily determined by political or economic factors, but by ideas which are present in the religious consciousness of a people.

- 2 Christianity is the consummate or true religion: it is the only major world religion which essentially includes a conception of humanity as infinitely free, a conception which can be independently verified as true by philosophy.
- 3 Given enough time, a Christian religious consciousness will necessarily translate itself into a secular political order which grants all individuals freedom, and this is the true explanation of why slavery was eventually eliminated in modern Europe (to the degree that it was).

Before addressing what makes these claims so controversial, it is worth noting why this account offers just the kind of “error theory” we were looking for. It explains why the ancient world failed to recognize the wrong of slavery that does not entail that they were especially wicked or stupid, which is that they lacked an insight only made generally accessible by Christianity. It gives us reason to think that the genesis of our own beliefs was not a merely contingent matter, but the outcome of a rational process, one that involved the arrival of an implicitly rational religion, and the translation of that rationality into secular institutions. And, finally, the story it tells fully acknowledges the historical fact that the elimination of slavery precedes and conditions the development of any explicit anti-slavery ideology and so cannot be plausibly understood as something that was deliberately brought about because of its perceived wrongness.

But Hegel’s view is not likely to garner much support in our own time, and for very understandable reasons. The most obvious problem is that these three claims imply a fourth—that Christianity is the only adequate basis for a modern, rational state—and this claim would seem both unwelcome in its political implications and empirically false, underestimating the breadth of the contemporary convergence in various non-Western and non-Christian traditions around recognition of basic human rights. And even if Hegel’s Christocentrism can be finessed, as many sympathetic readers have claimed, there are a series of other further concerns an account like his raises: it seems to place too much emphasis on religious consciousness as a sociological cause; it is Eurocentric both in its approach and its implications; and (most crucially, in my view) it rests on teleological claims about Christianity and history that have an uneasy relationship with the methods of contemporary social science. Even if philosophical liberalism needs something like Hegel’s philosophy of history in order to remedy its lack of an error theory, Hegel’s own account is accompanied with too much unwelcome baggage.

17.3 The Neo-Hegelian Response

This naturally raises the question of whether we can keep what is attractive in Hegel’s philosophy of history—his vindictory genealogy of the idea of universal human rights—without taking on board whatever is unattractive, implausible, or indefensible. What are the prospects for a revised version of Hegel’s philosophy of history?

Terry Pinkard's recent *Does History Make Sense?* (Pinkard 2017) offers us the most fully worked-out account of what it might look like to view Hegel's philosophy of history as providing the kind of error theory Williams thought liberalism desperately needed. In this respect, Pinkard is making good on a project he articulates in his very first book, *Democratic Liberalism and Social Union* (Pinkard 1987), which shares Williams' concerns with the excessive ahistoricism of contemporary, post-Rawlsian defenses of liberalism, and which puts forward the basically Hegelian claim that if liberalism is to be justified, it must be seen as the rational result of the historical process that brought it into existence. I think it useful to think of Pinkard's recent book as an attempt to provide such an account by synthesizing the most plausible bits of the three most important previous attempts to reformulate a broadly Hegelian theory of universal history.

The first is Benedetto Croce's *La storia come pensiero e come azione* (Croce 1938). Croce was one of the most famous defenders of liberalism in the early twentieth century, and wrote *La storia* under police arrest, at a time when European fascism was threatening to entirely vanquish any naive liberal faith in progress. In it, Croce adopts Hegel's claim that the "true and sole subject of history" is the story of the human striving for liberty. By this, he means that freedom is *both* the explanatory principle of history (contra materialism) *and* the moral ideal that guides it. But Croce believed it to be important to free his own philosophy of history from any hint of determinism or finality. He viewed the quest for liberty as an eternal task which could never be completed, one that required an ever-renewed struggle for ever more intense liberty, so the struggle for liberty becomes a more or less conscious end. In the context in which he was writing, it would have been clear what this called for at the moment: a military and ideological struggle against both fascism and communism with the fate of what he called "the liberal settlement" hanging in the balance.

The second and perhaps best-known attempt to modernize Hegel's philosophy of history was provided by Alexandre Kojève's *Introduction à la lecture de Hegel* (Kojève 1947) which was published shortly after the end of the Second World War. Unlike Croce, Kojève fully endorses the Hegelian view that history is coming or has come to an end, a final culminating stage. For Kojève, this final stage is represented by the "universal and homogenous state" that he saw coming into existence in post-War Europe, and which represents a solution to the basic problem of history. Instead of relying on the more idealistic account of historical dynamics that Hegel articulates in his lectures on the philosophy of world history, Kojève's view of history is grounded in a powerful re-interpretation of Hegel's "master-slave" dialectic in the *Phenomenology of Spirit*. In the resulting view, the logic of history is not the logic of Christianity gradually realizing itself by embodying itself in rational political institutions, but a matter of struggles for recognition between masters and slaves. Kojève's argument is that inequalitarian social orders, like slavery or serfdom, are inherently unstable because of the nature of human psychology,

particularly because of the human drive for recognition. The instability of these orders eventually leads to attempts by the oppressed to realize a condition in which their unmet claims for recognition can be realized. The “end of history” comes when we discovered a form of social order which is predicated on universal recognition of the value of each individual, and no longer gives rise to such discontent, even if it takes more time for this solution to spread to all areas of the world.

The third return to Hegel that is worth mentioning in this context is more contemporary: Susan Buck-Morss’s *Hegel, Haiti, and Universal History* (Buck-Morss 2005). Buck-Morss argues that Hegel’s earliest reflections on the master-slave dialectic were likely inspired by what was happening in the colony of Saint-Domingue as he was writing: the revolution of slaves headed by Toussaint-Louverture which was reported on heavily in the European press. What she hopes to show is by recognizing the hidden role that the Haitian revolution plays in the development of Hegel’s seminal thoughts on the relationship between the oppressed and the oppressor class, we can rescue “the idea of universal history from the uses to which white domination has put it” (Buck-Morss 2000: 865). More precisely, we free ourselves from the idea that the narrative of human freedom is a Western one—a story of the struggles and insights of Christian Europe— and instead attempt to redeem and reconstitute the project of universal freedom on the basis of moments of ethical clarity wherever they occurred.

Though Pinkard does not mention any of these figures in *Does History Make Sense?*, his own attempt to revive Hegel’s philosophy of history builds on important aspects of each of these accounts.

Like Croce, Pinkard is deeply skeptical about the seeming determinism of Hegel’s philosophy and he firmly rejects the end of the history thesis. Pinkard is emphatic both that history could have developed in a myriad of different ways—Christianity, to choose an important example, was not strictly necessary—and that there is no good reason to think that the true aim of history, the creation of a just social order, is the sort of thing that can be achieved once and for all. The aim or goal of history is, he emphasizes, an infinite, not a finite end (Pinkard 2017: 41). Pinkard, however, views the ever-renewed task of defending liberalism less in terms of a struggle against external ideological opponents than as the ongoing project of better realizing what is entailed by our commitment to justice as freedom, a project that “has since his own time even widened out into a critique of racial and gender injustice” (Pinkard 2017: 149). So to the degree that Pinkard’s account of history offers a form of liberal apologetics, it is defending not the liberalism of any particular moment but an open-ended and progressive liberalism.

But although he is skeptical of the end of history, Pinkard agrees with Kojève that there is nonetheless a logic to history, one that explains the development of egalitarian forms of political life. Like Kojève, Pinkard thinks egalitarian forms of life like that of the ancient Greeks are inherently unstable or internally contradictory. But this is less because they fail to satisfy a deep

human need for recognition, as Kojève argues, than because they ultimately prove to be unintelligible to the people who live in them. For Pinkard, in order to reproduce itself, any social order requires a certain unity or harmony between what people think they should do (their reasons or principles) and what they are motivated to do (their psychology or passions). The key question such an order raises is “whether the order itself generates a kind of moral psychology that can be successfully lived or put into practice or with whether the principles generate passions that in turn undermine the authority of the principles” (Pinkard 2017: 40). But inequalitarian social orders are not able to maintain this unity, and to the degree that they fail to do so, they fail to make sense to the people who are in them, which leads to the dissolution of those forms of life. He suggests that when such an order is displaced by another one that is better able to maintain this unity, we thus have reason to think that this marks some kind of rational progress, the achievement of more intelligible form of political life.

But like Buck-Morss, Pinkard thinks Hegel's own account of all of this needs to be rescued from its cultural racism and explicit Eurocentrism. He addresses this problem in a different way, though. Rather than broaden Hegel's account to encompass struggles for freedom outside Europe or at its periphery, as Buck-Morss attempts to do, he reduces its ambitions. As we saw, Hegel posits that the first stage of history is characterized by the belief that “one is free” and typified by various forms of what he calls “oriental despotism,” and he thinks Africa lies entirely outside of history proper. Pinkard demotes all of this to a kind of orientalist fantasy, one that has no historical value (even if it can be mined for other sorts of insights). For Pinkard, the plausible part of Hegel's story really begins with the ancient Greeks, and his philosophy of history is best understood not as *universal* history but as a reconstruction of the contingent path that Europe has taken to arrive at modern egalitarian forms of social order.

All of these departures from Hegel are clearly identified as such, but Pinkard's treatment of the failure of Greek political life involves a disagreement with Hegel's account that is not flagged as clearly, and which is crucial for our purposes here. As we have seen, Hegel thought the Greeks accepted the practice of slavery because they had an inadequate conception of freedom, one that did not posit that all humans are essentially free, but only “these Athenians” or “these Spartans.” So on his official account, there is no contradiction at all between the Greek conception of freedom and the institution of slavery; the Greek acceptance of slavery is both consistent with, and to be explained by the Greek view of freedom as dependent on political membership in a particular city. It is only the Christian notion of freedom—the view according to all humans are essentially free—that proves to be incompatible with slavery, and indeed the primary cause of its ultimate abolition in Europe. For Hegel, the internal contradiction that brought down the Greek polis was not directly related to slavery; it was a contradiction between individuality and democracy, the details of which I cannot get into here (LPWH I: 419).

Although Pinkard incorporates Hegel's official story of Greek decline into his own account, it is crucial for him that at least part of the cause for the dissolution of Greek ethical life was that Greeks could not make sense of the institution of slavery (Pinkard 2017: 73–4, 144–7). In Pinkard's account, as the Greeks became conscious of the contradiction between the economic necessity of slavery and its lack of justification, the very intelligibility of their form of life came into question. Pinkard thinks the Greeks attempted to obscure the unjustifiability of slavery from view through ideological bulwarks, like Aristotle's doctrine of natural slavery, but they ultimately simply gave up trying to justify it, though of course without trying to abolish it. The collapse of Greek ethical life thus shows that the Greek conception of freedom, like any limited or non-universal concept of freedom, was unactualizable (*unwirklich*) in the Hegelian sense: any attempt to realize it will necessarily end in failure—it will generate a kind of intelligibility crisis.

What is appealing about Pinkard's reconstruction of Hegel's philosophy of history is that it offers us an error theory of liberalism without some of the major liabilities of the official Hegelian story. Like the traditional Hegelian account, it shows that slavery disappeared because it was ultimately unjustifiable or irrational but it does so in a way that does not imply premodern peoples were stupid or wicked, failing to appreciate or act on an obvious moral fact. In his account, what we have learned about the essential universality of freedom, we learned precisely through the failed attempts to instantiate a non-universal conception of freedom. And Pinkard manages to tell this story without depending on any dubious historical teleology, without making any controversial claims about the historical efficacy and intrinsic rationality of the Christian religion, and without positing that history has come to an end. In all of these respects, this is a much more palatable Hegel.

But how plausible, empirically speaking, is the claim that the Greeks not only had trouble justifying slavery but also that their form of life collapsed into unintelligibility partly because of the failure of these attempts? As we have seen, there is one important bit of evidence that slavery was questioned in Ancient Greece: Aristotle's famous attempt to justify slavery is a response to certain unnamed critics who deny that slavery is just on the grounds that such domination is unnatural. This is certainly sufficient to show that it was possible to question the justice of slavery in that world, but it is a thin basis for asserting that there was a widespread need for such justifications in Ancient Greece. The notorious absence of any further discussion of slavery is, of course, ambiguous. It could be a sign that the vast majority of Greeks saw no need to justify the institution at all, as Williams claims, or it could be evidence of something like a guilty silence about an institution they knew they could not justify, as Pinkard's account suggests. But even if one grants Pinkard's interpretation of this absence of discussion, it is a further and less defensible step to say that this general but almost entirely unexpressed sense of the unjustifiability of slavery was an important cause of the downfall of Greek civilization, leading to a collapse in the kind of passionate normative

allegiance to the city-state that was essential to the military successes of the Greeks (Pinkard 2017: 75). I am not aware of any current accounts of the fall of Greek civilization that would help substantiate this further conjecture.

Pinkard, however, is enough of a Hegelian that his claims do not entirely rest on empirical support, on mere “external history.” They also have a basis in what he calls the logic of subjectivity. I cannot do full justice to this aspect of his argument here, but the rough idea is that in our attempts to make sense of the world there is a kind of rational pressure to come to grips with the nature of sense-making itself, which means understanding what it is to make self-conscious judgments. This drives us to a deeper understanding of what it is to be a subject at all, to a view of ourselves as intrinsically free which ultimately proves incompatible with inequalitarian social institutions. So although there was no necessity that that modern, egalitarian forms of social life would emerge, Pinkard thinks there is a more purely philosophical argument that can be given as to why only such forms would represent “progress in the comprehension of subjectivity” (Pinkard 2017: 148).

All of this is very much in the spirit of Hegel’s own project and worthy of further consideration, but the issue still remains as to whether we can actually see the logic of subjectivity playing itself out in the historical record or not. If we cannot show that the historical process by which we arrived at modern notions of human dignity was itself rational, in the sense that previous forms of life failed precisely *because* they were predicated on an indefensible conception of human freedom, then we will be left with a view according to which the arrival at such notions was contingent, but the results just happened to be required by the logic of subjectivity. While that is not a strictly incoherent position, such an approach forgoes the main attraction of the Hegelian approach: the argument that it is precisely the rightness of our own outlook which explains why it succeeded in history. It leaves us with the same kind of gap between the empirical story of the genesis of the modern outlook and its purported rational justification that Williams detected as a liability in contemporary philosophical liberalism. It thus fails to provide the kind of explanation for convergence that we can easily provide ourselves in the domain of the sciences.

17.4 Conclusion

My perhaps unsurprising conclusion is that Hegel’s philosophy of history – even in its most sophisticated contemporary incarnations—cannot offer us a fully satisfactory legitimation of our modern moral outlook. If I may be permitted to generalize a bit from my partial survey of the possibilities, I think there is a basic problem with Hegelian and neo-Hegelian responses to the challenge Williams articulates. The defining characteristic of Hegelian approaches to social theory is that they posit some connection between normative justification and institutional viability. In this case, that means showing that pre-modern, nonegalitarian societies failed at least partly because

they had an inadequate understanding or institutionalization of freedom. But that particular connection is not generally legible on the face of history even if we restrict our attention, as Pinkard advises, to European history. Even worse, there are general problems determining what would even count as conclusive evidence for or against such a suggestion. History only happens once—we cannot run it through multiple times to see how important Christianity actually was (Hegel), or whether slave societies will always collapse due to struggles for recognition (Kojève) or crises of intelligibility (Pinkard). Hypotheses like these involve complicated counterfactuals that we can only speculate about, and it is impossible to isolate or control for all of the potentially significant variables. To rest the justification of our own basic moral beliefs about human dignity on this kind of historical conjecture is to build on shifting sands.

We can, of course, retreat to *a priori* philosophizing to supplement what the merely empirical study of history offers us. We can try to offer a general philosophical account of the intrinsic irrationality and instability of inegalitarian social forms, one that shows why they will inevitably fall apart. But even if one does not share the current (and I think unfortunate) prejudice against *a priori* theorizing, surely the area of history or social structure is among those areas where *a priori* methods seems most overextended. So although Hegelian accounts of history certainly suggest some provocative hypotheses about the social dynamics and possible instabilities of inegalitarian social structures, these would need to be supplemented with other non-Hegelian approaches if they are to offer a viable and convincing account of actual historical changes, and this appeal to other mechanisms is likely to undercut any claim that the revolutions we actually see in history were ultimately driven by some kind of normative necessity rather than by a mix of contingent causes.

Where does this leave us with respect to the problem Williams identified, at least those of us who do not want to give up on our commitment that “all are free”? One possibility is to go in the direction that Williams himself goes—to accept that there is no universal justification for our commitment to the dignity of all human beings but to hold to it nonetheless. This can take many forms, but Williams rightly emphasizes that it does not necessarily leave you with nothing to say in favor of such a commitment. It might lead you to search for something like an affirmative genealogy of human rights: an account whose ambitions fall short of establishing the universal validity of human right but which shows that a full acknowledgement of the history of these rights does not necessarily undermine our attachment to them. The other possibility is to accept that we need a hybrid account—a philosophical justification of our fundamental commitment supplemented with a sort of critical theory of society, one that explains the limitations of previous in terms of social structures which inhibited reasoning about these matters. Habermas represents the canonical version of this approach within the critical theory tradition, but there is an increasing proliferation of forms this can

take. Hegelian-style collective learning processes can be a part of this kind of approach, but they cannot stand on their own. Either way, you must concede that history is not as rational as Hegel hoped.

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18 “Humanity Needed It, and It Appeared Forthwith”

Hegel on World-Historical Technologies

Sebastian Rand

18.1 Introduction

Hegel's views on technology can be hard to make out, perhaps in part because his philosophical life unfolded over what now looks like a lull in technological history.¹ At the time of his death, industrial use of steam power was still relatively rare in Germany, while the first dedicated passenger locomotive entered service in France shortly after his death, and the Daguerreotype process, along with telegraphy, arrived a few years later still. Hegel thus experienced, himself, neither the major technological advances we associate with the “early” nineteenth century nor the worst the industrial revolution had to offer. At some moments he shows his awareness of the ongoing spread of machine production,² offering appropriately dark reflections on the changes it had brought to modern life.³ But at some other moments, perhaps revealing how little his experience confronted him with the harsh reality of factory life, he abandons his usual pessimism for technological optimism. In one lecture, for instance, after admitting that “a factory presents a sad picture of the deadening of human beings,” he nevertheless insists that “once factory work has reached a certain degree of perfection, of simplification, mechanical human labor can be replaced by the work of machines, and this is what usually comes about,” such that “human freedom is restored” (GW 26:111).⁴ Given such ambivalence about the technological developments of his own time, together with his optimism about the industrial revolution, we might suspect that Hegel was somehow unable sufficiently to appreciate the transformative role of technology in history. And turning to his lectures on *Weltgeschichte*, our suspicion seems confirmed: even the greatest world-changing technologies appear simply conjured out of thin air, or willed into existence by the needs and aims of the *Weltgeist*: of gunpowder, for instance, he says that “humanity needed it, and it appeared forthwith” (GW 27:1519), and of the magnetic compass that “the technical appears when the need is at hand” (GW 27:1530).⁵ Yet if on this topic Hegel exhibits only optimism about the future, ambivalence about the present, and magical thinking about the past, doubts must arise about the general capacity of Hegelian thinking to offer us genuine insight into the pressing conflicts and tensions of our own age – an age in which *Geist* is not

only mediated through, but obviously saturated with, and arguably irretrievably distorted by, technologies of various kinds.

Hegel banishes from philosophy – in principle if not always in fact – predictions about the future, and there is already a growing literature on his assessment of his technological-industrial present.⁶ I therefore focus my attention here on the concept and function of technology (broadly construed⁷) in Hegel's confrontation with the past, in his philosophy of world history. Against the background of an initial understanding of the scope of that history (§2), I draw on Terry Pinkard's account of historical apperceptive self-consciousness as a resource for understanding Hegelian history of technology as the history of the technological mediation of such consciousness (§3). I then turn to the case of gunpowder, one of the few technologies to which Hegel devotes any discussion (§4). My claim will be that Hegel leaves open more conceptual space for the proper treatment of technology in history than he himself devotes to it in his own accounts.

18.2 Is There Room for Technology in Hegelian History?

Hegel generally betrays no sense that he must accord technology any particular historical importance. He offers no history of technology to parallel his semester-long, historically-oriented courses devoted to art, religion, philosophy, and world history itself,⁸ and although he occasionally digresses into fragmentary historical treatments of this or that narrower topic in the history of mathematics and science,⁹ he offers not even a fragmentary history of technology generally or of any specific technology anywhere in his published works.¹⁰

Yet there are occasional references to technology in both his published works and his lectures, and he nowhere advances, implicitly or explicitly, principled reasons to exclude technology from world history, or even to marginalize its role. While “the *universal* spirit, the *spirit of the world* [Geist der Welt], produces itself in its freedom from all limits” (PR §340), it does so in the “deeds and destinies” of the “existent individuals” in whom “the principles of the *spirits of nations* [Volksgeister]” get their “objective validity and self-consciousness” (PR §340). These “spirits of nations in their multifarious actuality” (E §554) include in each case not only a “consciousness of the highest determination of humanity,” “the nature of the ethical life [*Sittlichkeit*] of a people, the principle of its right and of its constitution,” but also “its art and science” (E §562R). Hegel's use of “art” is generally broad enough to suggest that technology falls somewhere within this last category and thus deserves a place in world history. Nonetheless when we turn to the content of the relevant lectures, not only technology but much that we might expect to encounter in a rich historical depiction of a *Volksggeist* and its characteristic *Sittlichkeit* will not be found in philosophical world history: in his systematic characterization of that content, Hegel stresses that world history “falls outside” such things as “justice and virtue, wrongdoing, violence and vice,

talents and their deeds, the small passions and the great, guilt and innocence, the splendor of individual and national life, [or] the independence, fortune, and misfortune of states and individuals" (PR §345). It may then be that just as we are not going to hear about the rise and fall of this or that dynasty, the unspeakable sins of this or that court, or the skillful diplomacy of this or that minister, we are also not going to hear about the various technologies arising out of this or that national spirit. The suspicion seems partly confirmed by Hegel's repeated assertion that a great deal of technology is ultimately spiritually meaningless,¹¹ while his failure to even mention many technologies he might well have pointed to – for instance, the many Roman innovations (paved roads, aqueducts, sewers, concrete, and so on) that surely played a non-negligible role in the success of the empire – appears only to confirm it further.

Yet Hegel cannot overlook every dynasty, every sin, or every maneuver, on pain of having nothing to talk about. One of his strategies for bridging the apparent gap between the *Weltgeist* and the material details of history is to appeal to the category of so-called "world-historical individuals:" "at the forefront of all actions," he tells us, "including world-historical actions, are *individuals* as the subjectivities by which the substantial is actualized," even if in the acts that accomplish such actualization, the substantial "is not their object and end" (PR §348). Through this idea of the world-historical individual, Hegel tries to balance the high-level principles, practices, and structures of the *Volksgeister* with their messy historical actualization. When it comes to technology, then, we might entertain the possibility that despite its predominant meaninglessness, at least some technology can be included in world history through a parallel category of world-historical technologies: those which, though invented for some local, finite purpose, come to play a decisive role in history by serving to actualize "the substantial."

But while idealism may be able to countenance the notion that a finite instance of *Geist*, a practical human agent, could advance the development of the *Weltgeist*, extending such a thought to a non-agent – to a tool, to a means – is quite a different matter. A means, we may be tempted to say, does not itself perform an action or bring about an end on its own.¹² Then again, it is not clear that Hegel feels this temptation in the least. The conception of technology as a mere material means for some conceptually distinct and essentially spiritual end is at odds both with his analysis of the means-ends relation generally and with his conception of self-consciousness; technology enjoys a logical form of universality that gives it meaning beyond any one end it may serve, and our apperceptive self-consciousness, being necessarily embodied, is essentially mediated by labor, and thus by tools, and thus by technology.¹³ It is therefore clear that a history of "progress in the consciousness of freedom" (TWA 12:32) must include a history of such mediation and thus a history of technology,¹⁴ whether Hegel provided one or not.

18.3 Technologically Mediated Apperceptive Self-Consciousness

We can explore the idea of a technologically mediated apperceptive self-consciousness with the help of Pinkard's book on Hegel's philosophy of history (Pinkard 2017). In broad terms, Pinkard argues that a social-historical view of apperceptive subjectivity – the sort of view Hegel takes – yields the idea of an infinite end in history (securing justice), which itself turns out, under the conditions of modernity, to require freedom as its basic ethical principle.¹⁵ The apperception characterizing this justice-oriented, free subjectivity is “a distinctive kind of self-relation” characterized by “an awareness of what one is doing in terms of various ‘ought’s, ‘must’s, and ‘ought not’s without there necessarily being any separate act of reflection accompanying one’s awareness.” Thus “[t]o be an apperceptive life—a subject—is to know that one is this shape of life exactly by being the life that falls under the concept,” and “[w]e fall under the concept by our actualizing the concept in our own lives” (Pinkard 2017: 11). Other forms of life, according to Pinkard's Hegel, only *have* reasons, whereas our (not always separately consciously thematized) *awareness* of our having them, and our acting in that awareness, marks a “rupture between all other forms of life and human life” (Pinkard 2017: 10). It is this apperceptive rupture that is always at stake for Hegel in discussions of self-conscious subjectivity as essentially tool-using.¹⁶

Actualizing the concept of and in our shape of life turns out to amount to actualizing and inhabiting what Pinkard calls a “concrete order of thoughts” (Pinkard 2017: 20). Such an order mediates between general principles on the one hand – the “‘ought’s, ‘must’s, and ‘ought not’s” serving as the most abstract ingredients in apperceptive self-consciousness's norm-bound self-interpretation – and the actuality of individual lived human psychology, on the other (Pinkard 2017: 40). But the material elements in the “order of thoughts” are more numerous and significant than the order's name, or this initial characterization of its mediating function, would suggest: the order of thoughts, according to Pinkard, includes not only institutions and practices but also “material culture” (Pinkard 2017: 41).¹⁷ It is as an element in material culture that technology gets its apperception-mediating role and thus its world-historical relevance.

Although Hegel does not explicitly thematize the centrality of technological mediation to apperceptive self-consciousness and *Sittlichkeit*, his lectures make frequent appeals to such mediation.¹⁸ Consider his treatment of the Greeks, with whom Hegelian history begins because they were the first, on Hegel's view, to record the history of their changing order of thoughts, and thus the first to make historicity part of their apperceptive self-consciousness, to conceive of themselves as historical subjects living through “changes in the metaphysics of subjectivity itself” (Pinkard 2017: 3–4).¹⁹ In that treatment, Hegel points out that technology plays a decisive and even originating role in

their history as the Greeks themselves recorded it. Their mythology ascribes the origin of *Sittlichkeit* to Ceres' introduction of agriculture and thereby of marriage,²⁰ which Hegel regards as the first and most basic properly ethical institution (TWA 12:280),²¹ and Hegel himself groups iron (dependent on mining and ironworking technologies) and horses (subject to training techniques and tackle technologies) together as "absolute organs of state power" (TWA 12:109).²² In all these claims Hegel explicitly understands the state, both in its origin in pre-state *Sittlichkeit* and in its ongoing capacity to maintain itself as the ultimate actualization of *Sittlichkeit*, to be constituted essentially (though not solely) through technology.²³

Because of its *Sittlichkeit*- and thus apperception-mediating function, the Greeks also regard technology, both in its production and use, as a proper object of aesthetic attention: in Homer, for example, "the happiness of humans in their tools appears in a striking way" when "the production of the scepter of Agamemnon is recounted at length" and "tools and outfits are [also] mentioned." The ultimate significance of such aesthetic attention is the recognition that "these human inventions belong to spirit, and such a tool is to be honored as higher than the natural object" (TWA 12:295). In his more expansive treatment of the same point in his aesthetics lectures, Hegel begins more cautiously by conceding that despite tools' "belong[ing] to spirit," it is only "for his external life" that "man needs house and garden, tents, seats, beds, swords and lances, ships for crossing the sea, chariots to take him into battle, kettles and roasting-tins." While aesthetics does not regard humanity's external life as false, it also does not regard that life, on its own terms, as the source of the inner or ideal unity that makes up the content of the work of art, and thus its tools may seem improper objects of artistic representation. But because the inner spiritual unity in question is necessarily mediated and actualized through an order of thoughts that includes its characteristic technologies, some of these can in fact figure in beautiful art. The criterion for a tool's inclusion in a poem is that it not be a mere "dead means of livelihood" but rather something in which the individual "feels himself alive with his whole mind and self," such that the poet can "give a really human... stamp to what is inherently external by bringing it into close connection with the human individual" (TWA 15:341). The tool must be, like Pinkard's "'oughts,' 'musts,' and 'must nots,'" the subject of "an awareness" of its centrality to the relevant form of life "without there necessarily being any separate act of reflection accompanying one's awareness" (Pinkard 2017: 11). If it is the subject of such an awareness, when it is encountered in a work of art it appears not as a trivial external element but as proper to the work's central content.

The hero of the epic can have such awareness of his form of life in and through his technology because he is intimately familiar with its production and so can understand the relation between that production, his heroic action, and the totality of his life and its order of thoughts. But the modern citizen, Hegel tells us, is in a very different situation: "we" actualize our concept of self-consciousness through an order of thoughts characterized by

“the intellect with its universals and that dominion of theirs which prevails independently of any individual disposition.” This order of thoughts is not less technologically constituted – quite the reverse: Hegel says it is actualized just as much in “our modern machines and factories with their products” as in “modern political organization” (TWA 15:341). The modern principles of universality and freedom in our order of thoughts result, through the process of abstraction of needs and means, in the familiar “multiplicity of businesses, factories, and workshops” into which “the production and preparation of any means for satisfying our needs” are now “fragmented” (TWA 15:343). But because the technological elements of our order of thoughts, through which our self-conscious apperception is mediated, are produced by and productive of a form of production from the totality of which any modern individual is necessarily distanced or alienated, we can know abstractly the facts of such production but cannot be individually aware of it and of our relation to its form and products in the aesthetically required sense. Modern artistic reflection therefore cannot duplicate the deeply felt, immediate Greek delight in technology (*pace* futurisms of various sorts). Thus despite their differing results, in both the case of the hero and the case of us moderns it is the apperception-mediating function of technology that determines its appropriateness for aesthetic presentation.²⁴

As noted above, the logical space available for technology in Hegel’s conception of world history is established not only by the concept of mediated apperceptive self-consciousness but also by the analysis of the means-ends relation partly constituting this concept. In that analysis, Hegel does not distinguish formally between tools and materials, or between tools as produced and tools as used in production, but rather understands all as “means,” as he does each finite end insofar as it functions in turn as means to some further finite end (GW 12:168). But he does distinguish formally between the immediate and singular satisfaction of a need, on the one hand, and more generally or “universally” addressing one’s neediness, on the other. It is in making this distinction that he indicates the general features of the apperception-mediating function of technology.

While immediate singular satisfactions are something we share with the non-laboring animals, the apperceptive rupture between them and ourselves is actual in our development and use of tools: “The plow is more honorable than the pleasures immediately are, which are prepared by it and which are the ends” that occasioned its invention; “[t]he *tool* endures, while the immediate pleasures dissipate and are forgotten.” The tool is more honorable because in it “the rationality in the purpose manifests itself... by maintaining itself in *this external other*, and precisely *through* this externality” (GW 12:166); that is, the tool makes the unrealized purpose it serves into an externally existing thing. But that thing – the tool *qua* purpose *qua* existent but unrealized – has a distinct logical form not exhausted by the singular end for which I made it: although the tool is (determined by) the purpose for which I fashioned it, it “has at the same time an *external* existence indifferent toward the purpose

itself and its realization;" in its existent reality, "as *immediate objectivity*," it has "a *universality of existence* which the subjective singularity of purpose still misses" (GW 12:163). Thus in its existent distinctness from the singular end for which it was the invented means, the tool has universality as its logical form, in that it enjoys a capacity to serve any number of other singular ends or sorts of ends.

As tool-mediated, labor shares this logical form of universality, a form which Hegel draws on and elaborates in his account of the division of labor and the system of needs, articulating the consequences of labor's development within the "concrete order of thoughts." For the self-consciously reflective technologically mediated laborer, "the universal and objective aspect of labor lies in *abstraction*," that is, in isolating properties and aspects of, and thus advancing the "specification" of, "means and needs," materials, tools, and ends, and in consequence effecting the division of labor. But because self-consciousness is mediated by one's position in the system of needs, an intensification of the social mediation of self-consciousness follows from this intensification of the universal aspect of technologically mediated labor: "this abstraction of skill and of the means simultaneously heightens to a total necessity the *dependence* and *mutual relations* of humans for the satisfaction of their remaining needs" (PR §198). Here technologically mediated labor and social relations amount to the same thing, such that historical change in the development of labor is both a development of tool technology and a development of social relations.²⁵

Thus on Hegel's view, the self-conscious subject of history mediates itself in and through an order of thoughts whose material element involves a tool function with universal logical form, through which socially determined and determining labor is made possible and develops historically. As we have seen in the role technology plays in the Greek and the modern self-conceptions, it serves a genuinely apperception-mediating function; this is the conceptual space Hegel opens up for world-historical technologies, one of which we will now consider.

18.4 Transformative Technology: The Case of Gunpowder

In his lectures on world history, Hegel consistently identifies moveable type and gunpowder as historically important technologies in Medieval Europe's transition to the early modern period.²⁶ He does not discuss moveable type in any detail but he offers a brief discussion of gunpowder in a passage on "The Transition from Feudal Lordship to Monarchy" (TWA 12:477ff.). The theme of this passage is a shift from principles of singularity and subjectivity to principles of universality through "the emergence of a higher instance of power, a communal one, a state power as such... in which the particular will is subordinated to substantial purpose." This "practical" shift was crucial to the development of the modern world Hegel's political philosophy aims to

describe, a shift whose other elements were “of a partly subjective, partly theoretical sort,” exemplified in the new forms of painting and poetry, in the first case, and scholastic philosophical theology, in the second (TWA 12:478, 476–7). Hegel tells the story of this transition in three stages.

18.4.1 Stage One

The first stage of Hegel’s account begins with a general analysis of the problem in feudal power. Feudal sovereignty, Hegel tells us, was based in “the outward force of individuals” (the feudal lords); thus insofar as the vassals’ fulfillment of the feudal duties through which the lords actualized that sovereignty depended upon “the lord’s being able to induce them to do so, by force of character or by grant of favors,” the entire arrangement was highly unstable. It amounted to a sovereignty that “could be secured only by the constant exercise of the power which was the sole basis of the claims in question” (TWA 12:478). In the face of such instability, effective “resistance to the feudal lords” – in the sense of resistance to the singular, subjective feudal form of sovereignty as such, rather than the usual struggles over who gets to wield power within that form – first arose through the establishment and growth of more formally universal communities: monastic orders, knightly orders, estates, corporations, and cities, especially within “confederations ... formed through a common interest in the suppression of predatory violence” (TWA 12:481).

In this first stage of Hegel’s story, apparently spiritual grounds or forces predominate: shifts in some subjective (aesthetic) and theoretical (philosophical-theological) elements of the order of thoughts, combined with new social relations established through new institutionally (but not explicitly technologically) mediated practices, produce a new, universalist form of sovereign power institutionalized in (nationalist) monarchies. The culmination of this first stage of the story is a similarly spiritual depiction of the Battle of Morgarten (1315):

The peasants of Uri, Schwyz, and Unterwalden were under imperial governors; for the Swiss governorships were not held as private property but were official appointments of the Empire. These the sovereigns of the Hapsburg line wished to secure to their own house. The peasant, with club and morning-star, returned victorious from a contest with the haughty, steel-clad nobles, armed with spear and sword and practiced in the chivalric encounters of the tournament.

(TWA 12:481)²⁷

The Empire’s relation to the Swiss Confederation exemplifies for Hegel the nascent universalist principles of monarchical state power, insofar as the Confederation’s Imperial governors were state functionaries rather than subordinate princes with sovereign powers in their personal possession; the

Hapsburgs' attempt to convert these state functions into personal sovereignties was a pure feudal reaction. And here technological advances seem to play no role in the peasants' victory, which Hegel attributes not to technological innovation but to the Confederation's alignment with the infinite ends of humanity. On the contrary, Hegel emphasizes that in fact the peasants won not through but rather despite their (more primitive) weapons technology, so that this battle seems to serve as an example of how the "complete anarchy" of predatory feudal power, maintained by spiritually exhausted material power, was "broken" by means not of technology but of "associations aiming at universal ends" (TWA 12:480–1).

18.4.2 Stage Two

In the second stage of his account, Hegel offers a different story, focused not on a single decisive battle but on a seemingly diffuse development in "another, technical means" deployed against "the overwhelming power in weaponry" enjoyed by feudal lords: gunpowder. "Through this discovery," he writes, "the difference in weapons between lords and bondsmen was now weakened" (GW 27:437–8). The peasants could now command an equal or even superior destructive force, which then "drove out" the expensive, skills-dependent weapons technology of the nobles; with this change in their relative combat power, so, too, "the power of the difference between lord and bondsman was sublated" (GW 27:437). But although we may seem to have here an instance of technology as the driver of social change, in fact at this stage of Hegel's telling of the story, gunpowder remains simply a means to actualizing an alteration in the order of thoughts already determined by the formation of the estates, corporations, knightly orders, monastic orders, and cities. Gunpowder brings that new order of thoughts into actuality, without itself altering or contributing to its content – and thus without playing, itself, a direct role in the apperception-mediating order of thoughts: gunpowder is a tool in the hands of the institutions which are themselves the real agents of history.

Although it stops short of making technology into an agent of transformation, this picture of technology – as the means to the achievement of spiritual ends intelligible without reference to those means – does fit well with many other things Hegel says. Earlier in the lectures, Hegel had identified weaponry as a technology closely tied to the culture in which a given weapon is invented and used (GW 27:76). His primary example of a historically situated technology was gunpowder, whose invention within the fourteenth-century European order of thoughts "cannot be regarded as contingent;" gunpowder, rather, "could only have been discovered and used at this time under these conditions of cultural formation" (GW 27:76). Taken plainly, the claim seems to be that the necessary condition for gunpowder's invention is identical with its sufficient condition, and that both are to be found in the spiritual needs of the time.²⁸ It is in this vein, apparently, that we should understand Hegel's

claim that gunpowder's invention was such that "humanity needed it, and it appeared forthwith" (GW 27:1519): the need of the emerging universalist practices and institutions to overcome the superior military power of the feudal lords was both the necessary and sufficient condition for the invention of gunpowder.

Were this in fact Hegel's entire position, he would be in trouble, on empirical-historical grounds if not on any others: gunpowder was invented not in fourteenth-century Europe but in ninth-century China. But Hegel himself acknowledges and tries to manage this fact, by distinguishing between invention, on the one hand, and widespread or "universal" use, on the other – a distinction he grounds in the universal form of tools seen above. Due to that form, a tool as such is always suited to ends beyond the one for which it was produced, and so can turn out to have a use more spiritually significant than its original one. Indeed, because of this universality of form, "the question of where" and when a given technology was invented "is a subordinate one" and what matters is when they "come into universal use" (GW 27:437). Thus he argues that while "the Chinese discovered gunpowder, they did not know how to use it" (GW 27:15) because, according to Hegel, they did not use it militarily. On this conception of technological development, what matters is not the development of the determinate material physical substance but the recognition that the invented thing can serve as a means to other, broader needs. Thus in saying that the needed technology "appeared forthwith," we can read Hegel as stressing "appeared:" the need itself allowed the *Volksgeist* to see the available artificial substance as a means to its satisfaction.

But even if Hegel is willing to accommodate the facts, and even if seeing his strategy for doing so gets us clear on his view, that view itself faces additional factual headwinds, for the Chinese not only invented gunpowder but used it in firearms and artillery prior to its introduction into Europe. Moreover, even if this were not the case and Hegel were right that only the spiritual needs of the anti-feudal elements in late Medieval Europe provided the necessary condition for the universal use of gunpowder, he would still be short of the claim about sufficient conditions apparently contained in the claim that "humanity needed it, and it appeared forthwith." That is, to flesh out his proposed account he would need to explain why gunpowder was available to be discerned by the spiritual need and thus used universally in the first place. We might wonder whether such an explanatory demand asks too much. That Hegel did not so wonder is shown by the fact that almost as soon as he concedes that gunpowder was invented by the Chinese, he denies that the Chinese invention was the one exploited by European society, suggesting rather that "the most probable thing is that gunpowder was invented by Monch Schwarz" (GW 27:437).

"Schwarz the Monk," alternately "Black Berthold," is a purely legendary figure, and so his invocation here may not seem to help Hegel's case.²⁹ But perhaps more importantly, even the events of his legend cannot be counted as the fourteenth-century European order of thoughts providing the necessary

and sufficient ground for the invention of a means satisfying the needs of its nascent universalist order. It is rather the story of a maximally contingent accident. The legend – not elaborated in Hegel’s lecture but presumably familiar to his audience – has it that Berthold was an alchemist who, “[w]ishing to kill the spirit (basilisk) of mercury... heated this metal with sulphur and saltpeter in a closed pot” or alternately “in closed metal vessels;” whichever it was, the pot or vessels “exploded and blew down his laboratory walls.” In another version of the story, “wishing to test the Aristotelian theory that bodies of hot and cold nature are antagonistic,” he “mixed in a stone mortar [*Stampfmörser*] saltpeter (cold) with sulphur (hot)... The mortar was put over a fire, when it exploded,” leading not only to the discovery of gunpowder but to the simultaneous invention of the homonymous artillery piece (*Schiessmörser*).³⁰

Such a process hardly seems to qualify as “the most probable thing” (GW 27:437). After all, in this story, a monk – or maybe an alchemist, or both, but in any case emphatically not an armorer – in pursuit of some entirely different (and indeed illusory, because alchemical) end, destroys the means of that pursuit (his laboratory) and in that very destruction invents a technology that just so happens to be what Europe needs so desperately. As literally wonderful as such an outcome may be, there does not seem to be anything in Hegel’s appeal to Black Berthold to support a reading of “humanity needed it, and it appeared forthwith” as asserting that the fourteenth-century order of thoughts provided both the necessary and the sufficient conditions for producing the technical means to satisfy humanity’s finite needs and thereby pursue its infinite ends; there seems to be only a comically contingent series of events almost perfectly formulated to contradict Hegel’s position.

But now recall what Hegel says about world-historical individuals. They are “the subjectivities by which the substantial” – made up of the infinite ends of humanity – “is actualized,” even though the substantial “is not their object and end” (PR §348). As Pinkard points out, Hegel uses this conception to push back against the “great men” theory of history, since Hegelian world-historical individuals are “simply lucky” insofar as “their greatness was thrust on them by future events, not by any intrinsically superb quality they possessed” (Pinkard 2017: 217n74). The passions and drives that motivate them are individual and personal, and operate exclusively toward finite ends, although the actions they take in pursuit of those ends turn out to contribute to “progress in the consciousness of freedom” as well; it is not despite but through those passions and drives that the infinite ends of humanity are actualized. Compare this conception to the logical structure of tools we saw earlier. These are invented for some singular end, but their form itself points beyond this end to others to which they are suited; without the original singular end they would not exist, but without going beyond it they would not be tools. Thus insofar as they, too, bring about progress in the direction of humanity’s infinite ends, they do so while being invented and taken up as means (successful or not) to some different and narrower finite ends. They

are included in world history not because of the intentions of their inventors but insofar as they gain spiritual significance for a *Volksgeist* by answering to its (infinite spiritual) needs.

As the story of the invention of a world-historical technology, the Black Berthold legend emphasizes precisely this universal form of technology: the radical contingency of its invention underlines the fact that the finite motives and ends of the action leading to that invention did not coincide at all with the way in which it serves humanity's infinite ends. Napoleon's world-historical status is visible not despite but precisely in the mismatch between his personal drives and what he accomplished for humanity, and in that sense, Black Berthold is just like him. If we are prepared to be so charitable, we can make sense of the claim that "humanity needed it, and it appeared forthwith."³¹

But at least one problem with this "solution" persists, namely, that the aim of the second stage of Hegel's account has been limited to understanding gunpowder as the means to satisfying an end intelligible in abstraction from these means. Thus even if gunpowder counts as world-historical because of the role it plays in European history, that role remains a mere means with no specially transformative function of its own. It is perhaps the limitation to being a mere means that makes it so difficult to see what Hegel could be driving at with his insistence on the historical situatedness of gunpowder, especially when we recall that gunpowder so conceived is not in fact situated historically in this way.

18.4.3 Stage Three

The third stage of Hegel's account addresses this problem by giving gunpowder an as-yet unexplored role in the historical shift from late Medieval to early Modern Europe. Here Hegel asserts not only that gunpowder satisfies an independently intelligible need for a determinate change in the order of thoughts by shifting military power to the institutions actualizing that change, but also that the specific way in which gunpowder satisfies that need alters that nascent order of thoughts itself by changing its understanding of military virtue. Unlike the shift in relative military power, this change is not one prepared for ahead of time and then merely actualized by some independent technical means; it is rather generated in an unforeseen way by the operation of the technology itself. Gunpowder doesn't just let untrained peasants contend with knights; it takes bravery out of the realm of bodily conditioning and knightly skill and "makes spiritual courage into the main determinant" of the results of combat. This "spiritual courage" is universal and social in form rather than singular and heroic, as bodily courage was: in modern warfare, "the main thing is command," such that what matters is boldness of strategy at the level of the army rather than individual physical bravery in hand-to-hand combat.³² This technologically-grounded spiritual alteration makes the fighting group – the universal – more important than the individual. Furthermore, the invention of gunpowder effects

the depersonalization and universalization not only of the means but of the ends of combat, as these ends are grasped by the individual fighter. In battle with firearms, according to Hegel, “the relation of the individuals as enemies ceases,” since one does not fight hand-to-hand with this one other person but “shoots at the abstract universal enemy” (GW 27:438). The apprehension the fighter has of himself by means of the tools that make him a fighter has changed: what it is and what it means to fight, to have an enemy and engage him, is technologically mediated so that a change in the relevant technology alters the fighter’s available understanding of what it is to be what he is. And the alteration operates not only at the individual but at the institutional level: although its use in combat is prepared for by prior institutional change, through gunpowder the institutional universalism of the middle classes is actualized in specifically military power, such that who or what can count as a military enemy – the enemy’s logical form – changes as well.³³ It is arguably only through this formal change in the shape of the enemy that it becomes possible to wage revolutions explicitly not just against this or that singular sovereign but against an entire class, and we thus begin to see why Hegel would have said that “one must regard the discovery of gunpowder as a means that coincides essentially with the modern intellect” (GW 27:438), an intellect culminating in the bourgeois revolution. Thus through the change gunpowder wrought in military culture, it anchored itself in a specific history: it altered the metaphysics of subjectivity, by altering the way self-conscious apperception is mediated.

This expansion of gunpowder’s spiritual role, from material means to agent of ends-formation, goes hand-in-hand with an expansion of the material meaning or referent of the term “gunpowder.” It is apparent that in the sense it now has, gunpowder is not just this family of chemical compounds but a synecdoche for the material culture of its use, a culture identical with “this time under these conditions of cultural formation” insofar as those conditions include a highly determined complex of technologies and practices (materials technologies, specific weapons, defensive measures, combat strategies, production processes, medical knowledge and practice, ethical norms, and so on), each element of which has its own (though not entirely separate) history and contributes to the nature of gunpowder itself as a tool and agent of change.³⁴ In this synecdochic sense, tools or technologies essentially exhibit not the abstract universality of belonging to no determinate time or place but the concrete universality of being anchored in and individuated by reference both to their technical milieu of surrounding mutually determining technologies and to the shape of life to whose order of thoughts they and that milieu belong. Through the apperception-mediating function they serve within the individuals, institutions, and practices of a given order of thoughts, they are inextricable from that order, even if we can abstract out the chosen synecdochic figure and identify it at other places and times, in other orders. In this complete and synecdochic sense, it is trivial that “gunpowder” could not have been invented anywhere else at any other time, just as Napoleon could

not have existed except when and where he did. Understood this way, Hegel leaves considerably more conceptual space available for world-historical technologies than he takes up with his account of gunpowder alone.

18.5 Conclusion

The picture of the historical role Hegel assigns to technology and the space he makes for a history of technology that would emerge from the above reflections distinguishes between technology in general and a relatively small number of world-historical technologies. These latter factor into world-historical shifts in the order of thoughts within which apperceptive self-consciousness is actualized at a given point in human history by partly constituting and transforming the new order, not only by enabling it to become actual. The technologies themselves are individuated less by their immediate existent determinations than by the function they have within that actualization and thus they are understood both as the cause and as the effect of the shape of life in which they figure. Seeing the technological mediation of apperception – seeing that apperceptive life just is a life lived within such an order of thoughts – thus allows us to understand better the providential and foreordained correspondence of needs and technical means Hegel seems to propose.³⁵

Notes

- 1 Even in 1840 total installed steam power in Germany lagged both the leader England – itself still half reliant on water power – and France (Lovland 2007: 17, 16). The Daguerreotype process was invented in 1839; the earliest practical telegraphy dates from the same period.
- 2 The spinning jenny was invented in 1765 and the modern water frame in 1769. See here Pinkard's observations on "*Industrie*" and "*Manufaktur*" in the Jena manuscripts and on the Prussian judgment of English industrial technology (Pinkard 2000: 696n204, 643–4).
- 3 Civil society is a "field of conflict" (PR §289R) that "affords a spectacle of extravagance and misery as well as of the physical and ethical corruption common to both" (PR §185), in which the division of labor results in work that is "spiritless and dull" (GW 26:302); compare earlier depictions at e.g., (GW 5:434; GW 6:321ff.; GW 8:243ff.).
- 4 See later echoes of the same optimism at (PR §198 and E §526).
- 5 Similarly, "[o]ther phenomena, e.g. book printing, arose, because they were necessary, because *Geist* needed them" (GW 30:147).
- 6 See, e.g., Juchniewicz (2014), Cesarale (2015), Juchniewicz (2018), Gertz (2018), and Kislev (2020).
- 7 Surely in some sense stone hand tools, simple machines, steam power, and nanotechnology do not belong in the same category; Hegel himself at times draws a rough distinction between tools, human-powered mechanisms, and automated machinery (e.g., at GW 5:343). But even if a fully satisfactory history of technology would have to put substantial weight on such distinctions, it would not thereby deny that in a distinct but still important sense these inventions belong together.
- 8 Hegel is not alone in his neglect; Marx imagines a "critical history of technology" that could make clear "how little any of the inventions of the eighteenth

century are the work of a single individual,” lamenting that “[a]s yet such a book does not exist” (Marx 1976: 493n4).

- 9 See, for example, the Remarks on the calculus in the *Logic* (GW 21:236–309), and brief discussions of various episodes in the history of science in assorted texts (e.g., E §270; PhG ¶244 [GW 9:139]).
- 10 He does, however, acknowledge the possibility of a “special history” of science (GW 27:13), alongside special histories of art, the constitution, and law.
- 11 See, e.g., (GW 27:75–6; GW 28:719–20).
- 12 But see the reference to Hegel’s distinction between tool, machine, and automated machine in note 7 above.
- 13 For earlier versions of a similar point see Kojève (1980: 161ff.) and Adorno (1993: 17–8).
- 14 Although I do not discuss it here, it is telling that Hegel also uses technological language in his metadiscourse describing history itself: spirit is a laborer, and “states, peoples, and individuals” are “the unconscious tools” of world-spirit (PR §334; see also TWA 12:40); heroes “were just as much the tools of the spirit of their time and their people, as those heroes used their people as the tool for the accomplishment of their acts” (E §381A); and human needs, drives, inclinations, and passions contribute to the actualization of conscious freedom as the powers of nature contribute to the building of a house that shuts them out (TWA 12:42–3).
- 15 See Pinkard (2017: 4, 44) for summaries, and *passim* for the larger argument; see Pinkard (2017: 41ff.) on infinite and finite ends.
- 16 Although on this account Hegel asserts an “anthropological difference,” he need not thereby deny the impressive capacities of many nonhuman animals. The notion of such a difference can admit shared capacities but focus on their differing functions within rational and nonrational forms of life; see Pinkard (2017: 31) and note 18 below.
- 17 Despite this characterization, Pinkard’s reconstruction of the relevant portions of the *Phenomenology* (Pinkard 2017: 19ff.) follows Pinkard (1994) in being relatively dematerialized, though his Hegel biography (Pinkard 2000) and *Hegel’s Naturalism* (Pinkard 2012) point away from such a dematerialized approach.
- 18 As Pinkard correctly points out, history does not start with the emergence of apperceptive self-consciousness because there is no “basic action” or event that leads to the introduction of apperceptive subjectivity into the world (Pinkard 2017: 151).
- 19 On Hegel’s choice to start history proper with the Greeks, see Pinkard (2017: 140ff.).
- 20 Over various Jena-period system drafts, Hegel shifts the relative priority of family relations, on the one hand, and tool-based productivity, on the other (see Pinkard 2000: 172–4, 190–3), but in his Berlin period he settles firmly on tool-mediated labor as the basis for the constitution of the family as an ethical relation.
- 21 The same account, stripped of its mythological form, appears at (PR §203R).
- 22 Later both horses and camels are categorized as “weapons” (TWA 12:117) and thus treated as instances of what Hegel elsewhere (GW 27:76) identifies as the paradigmatic historically significant technology.
- 23 When Hegel asserts, conversely, that the state is the context in which the historical development of *Wissenschaft* is made possible in modernity, he goes on to specify that *Wissenschaft* here includes both empirical natural science and technology (GW 27:30, 61–2).
- 24 Hegel contrasts Voss’s *Luise* with Goethe’s *Hermann und Dorothea* on this point. In Voss’s “idyllic” social unity such homely, unpretentious items as “the tobacco pipe, the night shirt, the rocking chair, and the coffee pot play a large role.” But tobacco, “coffee[,] and sugar are products which could not have been produced

in such a circle, and so point” in a way destructive of aesthetic unity “to a totally different context, to an alien world and its manifold mediations of business, to factories, and to modern industry in general.” Goethe’s novel, by contrast, embraces “the great interests of the time, the battles of the French Revolution [and] the defense of the fatherland,” and yet preserves an “idyllic tone” by avoiding depiction of the technological industrial mediation of our need-satisfaction: his characters drink not sugared coffee but “a local growth, vintage 1783, in the cool of the day, from local glasses suitable only for Rhine wine” (TWA 13:339–40; compare GW 28:55–6, 501). Note however that because the local recent vintage and local glasses function idyllically in virtue of their determinate grounding in their historical context, the importance Hegel here attaches to these details for aesthetics stands in some tension with his claim elsewhere that the technical development of spiritually meaningless luxuries (e.g., glassware) cannot form a part of world history (see GW 27:76). – Coffee again gives rise to this same problem in a recent novel doing its best to grapple with history and modernity using the resources of recent American popular culture and its philosophical self-reflection (Lerner 2015: 19).

25 As Marx puts it less dialectically:

Technology reveals the active relation of man to nature, the direct process of the production of his life, and thereby it also lays bare the process of the production of the social relations of his life, and of the mental conceptions that flow from these relations.

(Marx 1976: 493–4n4)

- 26 He mentions the magnetic compass as well, though inconsistently; see (GW 27:771ff., 1126ff., and 1517ff.).
- 27 Compare (GW 27:1519); for a recent discussion of this battle, see Winkler (2008).
- 28 See note 6 above.
- 29 Hegel elsewhere (TWA 19:585) credits Roger Bacon with gunpowder’s invention, suggesting that his view on this matter was unsettled.
- 30 We do not know Hegel’s source but see Partington (1999: 91ff.) for a roundup of variants.
- 31 And yet the link is not so contingent after all, especially if we consider Hegel’s specific reference to Black Berthold’s monasticism. Through the reference to him as “Monch Schwarz,” Hegel stresses his membership in one of the institutions responsible for the turn away from feudalism, and so ties the conditions of the invention of gunpowder to the change in the order of thoughts, while also seeing that by inventing not just gunpowder but its use in projectile weaponry (by exploiting the universal form of existing mortar technology), he both invented gunpowder and pointed the way to its military use. Of course, Hegel is here still wrong on the facts!
- 32 Yet the modern army cannot win if its soldiers will not shoot, a fact that has had wide-ranging consequences; see Grossman (2009).
- 33 “Once spirit was oriented toward the universal, it had to discover a universal means as well; gunpowder was also discovered, and thereby this relation of the singular to the singular in war was sublated” (GW 30:402).
- 34 See the discussion of “technical macro-systems” in relation to the work of Alain Gras and Heidegger in Guchet (2005: 10–1, 46ff.).
- 35 Thanks to Matt Delhey, whose work with me on nearby topics for his MA thesis (Delhey 2018) prompted my interest in this one. Thanks also to Lydia Goehr, Thomas Khurana, and Robert Stern, along with the members of Johannes Haag’s WS 2021–2022 seminar, for helpful comments on earlier versions of this paper.

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